

Journal of the Senate

FORTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 12, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
Should we let the Bible
Affect the way we vote?
Or should we let its influence
Be rare and remain remote?
Our founding fathers did not flinch
From using Bible quotes;
Whether while debating
Or deciding how to vote.
Blackstone's Commentaries set
The foundation for legal minds.
He was the second most quoted source
By the Founders in their time.
Blackstone said the laws of God
Should not suffer contradiction,
But the law that You revealed, O God,
Is Your jurisdiction.
I know, O God, that legislators
Will seek help all around.
I only pray they'll search Your Word
And find what Blackstone found.
I pray in the Name of Jesus Christ,
AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 313, An act concerning school districts; relating to the contingency reserve fund; amending K.S.A. 2008 Supp. 72-6426 and repealing the existing section, by Committee on Ways and Means.

SB 314, An act creating the special economic revitalization act, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1614—

By Senators D. Schmidt, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, V. Schmidt, Schodorf, Steineger, Tadden, Umbarger, Vratil, Wagle and Wysong

A PROPOSITION to amend article 11 of the constitution of the state of Kansas by adding a new section thereto, concerning a budget stabilization fund in the state treasury.

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

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 11 of the constitution of the state of Kansas is hereby amended by adding a new section thereto to read as follows:

§ 14. **Budget Stabilization Fund.** A budget stabilization fund shall be established and maintained in the state treasury.

- (a) Not later than June 30 of each year, an amount equal to .25 percent of the state revenues collected in the preceding 12 months shall be transferred to the budget stabilization fund. The legislature shall have the power to transfer or appropriate additional amounts to the budget stabilization fund as the legislature may deem appropriate.
- (b) Moneys may be transferred from the budget stabilization fund only as follows:
 - (1) Any amount of moneys may be transferred from the budget stabilization fund into a single other state fund. Any transfer authorized by this subparagraph shall be by a separate bill that does not include any other matter except that authorizing the transfer from the budget stabilization fund. The affirmative vote of not less than three-fifths of all members then elected (or appointed) and qualified to each house shall be necessary to pass any separate bill authorized by this subparagraph.
 - (2) Whenever the amount in the budget stabilization fund exceeds five percent of the state revenues collected in the previous fiscal year, moneys that exceed such five percent may be transferred from the budget stabilization fund into a single other state fund. Any transfer authorized by this subparagraph shall be by a separate bill that does not include any other matter except that authorizing the transfer from the budget stabilization fund.
- (c) Amounts in the budget stabilization fund may be invested as provided by law and the earnings thereon shall be retained in the budget stabilization fund.
- (d) As used in this section, "state revenues" means all revenues from any source deposited to any state fund excluding any revenues received from the federal government.
- (e) The legislature may enact laws to carry out the purposes of this section."

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

"Explanatory statement. The purpose of this amendment is to establish a budget stabilization fund in the state treasury.

"A vote for this amendment would require that annually .25 percent of the state revenues collected in the preceding year be transferred to the budget stabilization fund. Moneys from such fund may only be transferred for the following circumstances:

- (1) By a separate act of the legislature passed by an affirmative vote of not less than three-fifths of all members then elected (or appointed) and qualified to each house.
- (2) By a separate act of the legislature whenever the amount in such fund exceeds five percent of the state revenues collected in the previous fiscal year, moneys that exceed such five percent may be transferred from the budget stabilization fund.

“A vote against this amendment would make no changes in current law concerning the state’s finance.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2010 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

POINT OF PERSONAL PRIVILEGE

Senator Lynn rose on a point of personal privilege to introduce Alexis Radil, Ashley Holverson, Don Seifert and Darren Friendt, who were guests representing the Olathe Convention Visitors Bureau.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 312**.

Ways and Means: **SB 311**.

CHANGE OF REFERENCE

The President withdrew **SB 196** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of **Substitute for HB 2029, Substitute for HB 2320, HB 2359**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute for HB 2029, Substitute for HB 2320, HB 2359 were thereupon introduced and read by title.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 204, An act concerning the secretary of agriculture; relating to food safety and lodging; disposition of moneys; creating the food safety and lodging fee fund; amending K.S.A. 2008 Supp. 74-591 and repealing the existing section; also repealing K.S.A. 2008 Supp. 36-512, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

SB 254, An act concerning zoning; relating to counties declared urban areas; amending K.S.A. 19-2960 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Holland, Huelskamp, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, Morris, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Francisco, Hensley, Kelly, McGinn, Ostmeyer.

The bill passed.

SB 257, An act concerning cities; relating to public improvements outside the city limits; amending K.S.A. 12-693 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 31, Nays 7, Present and Passing 2, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Kelsey, Kultala, Lee, Marshall, Masterson, Morris, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Francisco, Holland, Huelskamp, Lynn, Ostmeyer, Owens, Pyle.

Present and Passing: Kelly, McGinn.

The bill passed, as amended.

HB 2004, An act concerning retirement plans for certain employees of the state board of regents; amending K.S.A. 2008 Supp. 74-4925 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2092, An act relating to real property; prohibiting certain transfer fee covenants, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2158, An act concerning the Kansas highway patrol; pertaining to the ability of officers and members of the highway patrol to hold public office; amending K.S.A. 2008 Supp. 74-2113 and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Faust-Goudeau introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1848—

A RESOLUTION congratulating Felix Zacharias.

WHEREAS, Felix Zacharias, an esteemed resident of Wichita, Kansas, and a junior in the study of political science at the University of Kansas, has achieved distinction by being named to the Executive Board of the University of Kansas Student Alumni Association for 2009-2010 as Vice President of University Relations, a position that makes him responsible for coordinating alumni association events held on campus; and

WHEREAS, The University of Kansas Student Alumni Association educates students about the KU Alumni Association and prepares them to become future alumni leaders, fostering spirit and pride and continuing traditions; and

WHEREAS, Mr. Zacharias has also been honored by being chosen to attend the 2009 Kansas University LeaderShape Institute, where he joined students from around the world in developing leadership skills to be used in promoting projects that make the world a better place for all; and

WHEREAS, Mr. Zacharias has served in the United States Marine Corps since 2000 and has served two tours of duty in Iraq where, among other duties, he conducted over 100 combat missions and researched, planned and executed several company-level training exercises in urban mounted/dismounted patrolling, as well as insurgent tactics, techniques and procedures; and

WHEREAS, Mr. Zacharias served as Vice President of the Kansas University Collegiate Veterans Association in 2007 and 2008 and serves as its President today, having traveled personally to Washington, D.C. in the summer of 2008 to lobby for the 21st Century G.I. Bill; and

WHEREAS, Mr. Zacharias serves as a Non-Traditional Student Senator in the University of Kansas Student Senate, where he has written student legislation that has created accountability in Board turnover procedures; and

WHEREAS, Mr. Zacharias personifies the best that can be found in American youth, a best that is sorely needed to continue the traditions and founding principles of this great nation as we steer our course through the current troubled times: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Felix Zacharias for all his service to America and extend our best wishes for his continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator Oletha Faust-Goudeau.

On emergency motion of Senator Faust-Goudeau **SR 1848** was adopted unanimously.

Senator Faust-Goudeau introduced Felix Zacharias and members joined her in recognizing him with a standing ovation.

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

SENATE RESOLUTION No. 1849—

A RESOLUTION designating March 12, 2009, as World Kidney Day and March as Kidney Awareness Month in Kansas.

WHEREAS, The State of Kansas recognizes that healthy citizens are essential for strong communities to thrive; and

WHEREAS, Chronic kidney disease is a major public health problem, with increasing prevalence, poor outcomes, long waits for kidney transplants and high costs; and

WHEREAS, More than 1 in 9 American adults have chronic kidney disease and over 2,200 Kansans receive life sustaining dialysis treatment; and

WHEREAS, Early detection can help prevent the progression of kidney disease toward kidney failure; and the earlier kidney disease is detected, the better the chances of slowing or stopping its progression and avoiding long hospital stays and dialysis; and

WHEREAS, As the costs of health care continue to grow, early and accurate identification of kidney disease is a critical component of efforts to reduce the negative clinical and economic impact on individuals and on the State of Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we designate March 12, 2009, as World Kidney Day and March as Kidney Awareness Month in Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Senator Carolyn McGinn.

On emergency motion of Senator McGinn **SR 1849** was adopted unanimously.

Senator McGinn recognized Wendy M. Schrag, Christine Seaton and Karl Bauder, who were representing the Kansas Kidney Association.

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

SENATE RESOLUTION No. 1850—

A RESOLUTION recognizing the history of excellence demonstrated by the University of Kansas men's basketball team and declaring that it should not play any team that starts with the letter "B" in March.

WHEREAS, The University of Kansas Jayhawks men's basketball team has won five national championships, in 1922, 1923, 1952, 1988 and 2008, and have won a record 52 conference championships; and

WHEREAS, The Jayhawks have 13 NCAA Tournament Final Four appearances and 37 NCAA Tournament appearances; and

WHEREAS, The Jayhawks have been a number 1 seed eight times since the NCAA Tournament started seeding teams in 1979; and

WHEREAS, The Kansas Jayhawks currently have a 41 game winning streak in Allen Fieldhouse, the longest home-court winning streak in the nation; and

WHEREAS, The reigning national champions have enjoyed a successful 2009 season, posting a 14-2 conference record en route to another conference championship; and

WHEREAS, Despite their legacy of success, the Jayhawks have frequently struggled with teams that begin with the letter "B" in the month of March; and

WHEREAS, The Jayhawks recent struggles against "B" teams in the month of March include a 64-63 loss to Bucknell in the First Round of the NCAA Tournament in 2005, a 77-73 loss to Bradley in the First Round of the NCAA Tournament in 2006 and a 71-64 loss to Baylor in the Second Round of the Big 12 Tournament in 2009; and

WHEREAS, The heartache and disappointment caused by the losses to these "B" teams in March has been great. Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the history of excellence of the University of Kansas men's basketball team and that we declare that the team should not play any more teams that begin with the letter "B" in the month of March; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senators Terry Bruce, David Wysong, Marci Francisco, Bob Marshall, Ralph Ostmeier, Derek Schmidt, Vicki Schmidt and John Vratil.

On emergency motion of Senator Wysong **SR 1850** was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 257 reported correctly engrossed March 11, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2321**, as amended by House Committee, be passed.

Committee on **Commerce** recommends **HB 2270** 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 **Ethics and Elections** recommends **SB 297** be amended on page 2, before line 15, by inserting:

"New Sec. 2. (a) Any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, who is employed by a state educational institution as defined by K.S.A. 76-711, and amendments thereto, shall file a written statement of substantial interests with the employing state educational institution.

(b) The written statement of substantial interests filed with a state educational institution pursuant to this section shall, at a minimum, include the information required by K.S.A. 46-229, and amendments thereto, and shall be an open public record. Any conflict of interests information required by the state board of regents or state educational institution that is in addition to that which is required by K.S.A. 46-229, and amendments thereto, may be placed in the faculty member's personnel records file and discretionarily closed in accordance with K.S.A. 45-221, and amendments thereto.

(c) The written statement of substantial interests required by this section shall be in such form as required by the state board of regents and shall be filed annually as part of the state

educational institution's appointment or salary notification process, and supplemented as required by the state board of regents.”;

And by renumbering sections accordingly; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2054** be passed.

Committee on **Judiciary** recommends **HB 2096** be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2096,” as follows:

“SENATE Substitute for HOUSE BILL No. 2096

By Committee on Judiciary

“AN ACT concerning driving; creating the Kansas DUI commission; creating the correctional services special revenue fund; relating to driver improvement clinics; providing for disposition of certain moneys; relating to penalties for driving under the influence of alcohol or drugs; information sent to the Kansas bureau of investigation central repository; amending K.S.A. 12-4517 and K.S.A. 2008 Supp. 8-255, 8-267, 8-1567, 8-1567, as amended by section 2 of this act, and 12-4106 and repealing the existing sections.”; and the substitute bill be passed.

Also, **HB 2060** be amended on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 21-4319 is hereby amended to read as follows: 21-4319. (a) Unlawful conduct of cockfighting is: (1) Causing, for amusement or gain, any gamecock to fight with or injure *or kill* another gamecock; (2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; *or* (3) training, *grooming, preparing or medicating* any gamecock for the purpose or with the intent of having it fight with or injure *or kill* another gamecock; ~~or (4) attending the unlawful conduct of cockfighting as provided in this subsection.~~

(b) Unlawful ~~conduct of cockfighting is a class A nonperson misdemeanor:~~ *possession of cockfighting paraphernalia is possession of spurs, gaffs, swords, leather training spur covers or anything worn by a gamecock during a fight to further the killing power of such gamecock.*

(c) *Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring.*

(d) *Unlawful conduct of cockfighting is a level 10 nonperson felony.*

(e) *Unlawful possession of cockfighting paraphernalia is a class A nonperson misdemeanor.*

(f) *Unlawful attendance of cockfighting is a class B nonperson misdemeanor.*

~~(g)~~ (g) As used in this section, “gamecock” means a domesticated fowl that is ~~bred~~ reared or trained for the purpose of fighting with other fowl.

~~(h)~~ (h) The provisions of this section shall be part of and supplemental to the Kansas criminal code.”;

On page 7, after line 41, by inserting the following:

“Sec. 3. K.S.A. 2008 Supp. 21-4705 is hereby amended to read as follows: 21-4705. (a) For the purpose of sentencing, the following sentencing guidelines grid for drug crimes shall be applied in felony cases under the uniform controlled substances act for crimes committed on or after July 1, 1993:

SENTENCING RANGE - DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level I	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felonies	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felonies	2+ Misdemeanors	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
III	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	29 24 23	33 29 27	19 18 17	15 15 14
IV	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Words, Bo
Presumptive Imprisonment

(b) The provisions of subsection (a) will apply for the purpose of sentencing violations of the uniform controlled substances act except as otherwise provided by law. Sentences expressed in the sentencing guidelines grid for drug crimes in subsection (a) represent months of imprisonment.

(c) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure. The sentencing court shall not distinguish between the controlled substances cocaine base (9041L000) and cocaine hydrochloride (9041L005) when sentencing within the sentencing range of the grid block.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(d) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I shall not be considered a departure and shall not be subject to appeal.

(e) The sentence for a second or subsequent conviction of K.S.A. 65-4159 and amendments thereto, manufacture of any controlled substance or controlled substance analog shall be a presumptive term of imprisonment of two times the maximum duration of the presumptive term of imprisonment. The court may impose an optional reduction in such sentence of not to exceed 50% of the mandatory increase provided by this subsection upon making a finding on the record that one or more of the mitigating factors as specified in K.S.A. 21-4716 and amendments thereto justify such a reduction in sentence. Any decision made by the court regarding the reduction in such sentence shall not be considered a departure and shall not be subject to appeal.

(f) (1) The sentence for a third or subsequent felony conviction of K.S.A. 65-4160 or 65-4162, and amendments thereto, shall be a presumptive term of imprisonment and the defendant shall be sentenced to prison as provided by this section. Such term of imprisonment shall be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

(2) If the defendant has previously completed a certified drug abuse treatment program, as provided in K.S.A. 2008 Supp. 75-52,144, and amendments thereto, has been discharged or refused to participate in a certified drug abuse treatment program, as provided in K.S.A.

2008 Supp. 75-52,144, and amendments thereto, has completed an intensive substance abuse treatment program under paragraph (1) or has been discharged or refused to participate in an intensive substance abuse treatment program under paragraph (1), such defendant's term of imprisonment shall not be subject to modification under paragraph (1).

The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(g) *(1) Except as provided further, if an offender carries a firearm to commit a drug felony, or in furtherance of a drug felony, possesses a firearm, in addition to the sentence imposed pursuant to the Kansas sentencing guideline act, the offender shall be sentenced to:*

- (A) *An additional 12 months imprisonment;*
- (B) *if the firearm is brandished, an additional 15 months imprisonment; and*
- (C) *if the firearm is discharged, an additional 24 months imprisonment.*

(2) *The sentence imposed pursuant to paragraph (1) shall be presumed imprisonment.*

(3) *The provisions of this subsection shall not apply to violations of K.S.A. 65-4152, 65-4160 or 65-4162, and amendments thereto.*

(4) *For purposes of this subsection, the term "brandish" means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.*

Sec. 4. K.S.A. 2008 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

- (a) all offenses which statutorily and specifically authorize forfeiture;
- (b) violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;
- (c) theft which is classified as a felony violation pursuant to K.S.A. 21-3701, and amendments thereto, in which the property taken was livestock;
- (d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments thereto;
- (e) money laundering, K.S.A. 65-4142, and amendments thereto;
- (f) gambling, K.S.A. 21-4303, and amendments thereto, and commercial gambling, K.S.A. 21-4304, and amendments thereto;
- (g) counterfeiting, K.S.A. 2006 Supp. 21-3763, and amendments thereto;
- (h) violations of K.S.A. 2006 Supp. 21-4019, and amendments thereto;
- (i) medicaid fraud, K.S.A. 21-3844 et seq., and amendments thereto;
- (j) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;
- (k) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;
- (l) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;
- (m) furtherance of terrorism or illegal use of weapons of mass destruction, K.S.A. 2006 Supp. 21-3451, and amendments thereto.

(n) *Unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, K.S.A. 21-4319, and amendments thereto.*;

And by renumbering the sections accordingly;

Also on page 7, in line 42, after "K.S.A." by inserting "21-4319 and K.S.A."; also in line 42, by striking "is" and inserting ", 21-4705 and 60-4104 are";

In the title, in line 9, by striking "and punishment" and inserting ", punishment and criminal procedure"; also in line 9, after "to" by inserting "cockfighting; asset forfeiture;"; in line 10, after the semicolon by inserting "drug offenses; possession of a firearm; sentencing;"; also in line 10, after "amending" by inserting "K.S.A. 21-4319 and"; also in line 10, after "21-4704" by inserting ", 21-4705 and 60-4104"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2098 be amended on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 21-3523 is hereby amended to read as follows: 21-3523. (a) Electronic solicitation is, by means of communication conducted through the telephone, internet, or by other electronic means:

(1) Enticing or soliciting a person whom the offender believes to be a child ~~under the age of 16~~ 14 or more years of age but less than 16 years of age to commit or submit to an unlawful sexual act; or

(2) enticing or soliciting a person whom the offender believes to be a child under the age of 14 to commit or submit to an unlawful sexual act.

(b) Electronic solicitation as described in subsection (a)(1) is a severity level 3 person felony. Electronic solicitation as described in subsection (a)(2) is a severity level 1 person felony.

(c) For the purposes of this section, “communication conducted through the internet or by other electronic means” includes but is not limited to e-mail, chatroom chats and text messaging.

(d) This section shall be part of and supplemental to the Kansas criminal code.”;

On page 2, after line 34, by inserting the following:

“Sec. 3. K.S.A. 21-4642 is hereby amended to read as follows: 21-4642. (a) An aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole. Such offender shall spend the remainder of the offender’s natural life incarcerated and in the custody of the secretary of corrections. An offender who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence.

(b) Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.

(c) As used in this section:

(1) “Aggravated habitual sex offender” means a person who, on and after July 1, 2006: (A) Has been convicted in this state of a sexually violent crime, as described in paragraphs (3)(A) through 3(J) or (3)(L); and (B) prior to the conviction of the felony under subparagraph (A), has been convicted on at least two prior conviction events of any sexually violent crime.

(2) “Prior conviction event” means one or more felony convictions of a sexually violent crime occurring on the same day and within a single ~~count~~ court. These convictions may result from multiple counts within an information or from more than one information. If a person crosses a county line and commits a felony as part of the same criminal act or acts, such felony, if such person is convicted, shall be considered part of the prior conviction event.

(3) “Sexually violent crime” means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;
 (B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;
 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;
 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;
 (F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;
 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;
 (H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;
 (I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;
 (J) aggravated incest, K.S.A. 21-3603, and amendments thereto;
 (K) any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

(L) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section;
 or

(M) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.;

And by renumbering the sections accordingly;

Also on page 2, in line 35, after "K.S.A." by inserting "21-3523,;" also in line 35, by striking "is" and inserting "and 21-4642 are";

In the title, in line 10, after the semicolon by inserting "electronic solicitation; evidence in certain prosecutions; aggravated habitual sex offenders,;" also in line 10, after "K.S.A." by inserting "21-3523,;" also in line 10, after "21-3525" by inserting "and 21-4642"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2233 be amended on page 1, after line 13, by inserting the following:

"Section 1. K.S.A. 22-3210 is hereby amended to read as follows: 22-3210. (a) Before or during trial a plea of guilty or *nolo contendere* may be accepted when:

- (1) The defendant or counsel for the defendant enters such plea in open court; and
 - (2) In felony cases the court has informed the defendant of the consequences of the plea, including the specific sentencing guidelines level of any crime committed on or after July 1, 1993, and of the maximum penalty provided by law which may be imposed upon acceptance of such plea; and
 - (3) in felony cases the court has addressed the defendant personally and determined that the plea is made voluntarily with understanding of the nature of the charge and the consequences of the plea; and
 - (4) the court is satisfied that there is a factual basis for the plea.
- (b) In felony cases the defendant must appear and plead personally and a verbatim record of all proceedings at the plea and entry of judgment thereon shall be made.
- (c) In traffic infraction, cigarette or tobacco infraction and misdemeanor cases the court may allow the defendant to appear and plead by counsel.
- (d) (1) A plea of guilty or *nolo contendere*, for good cause shown and within the discretion of the court, may be withdrawn at any time before sentence is adjudged.
- (2) To correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw the plea.
- (e) (1) *Any action under subsection (d)(2) must be brought within one year of: (A) The final order of the last appellate court in this state to exercise jurisdiction on a direct appeal or the termination of such appellate jurisdiction; or (B) the denial of a petition for a writ of certiorari to the United States supreme court or issuance of such court's final order following the granting of such petition.*

(2) *The time limitation herein may be extended by the court only upon an additional, affirmative showing of excusable neglect by the defendant.*

Sec. 2. K.S.A. 22-3412 is hereby amended to read as follows: 22-3412. (a) (1) For crimes committed before July 1, 1993, peremptory challenges shall be allowed as follows:

- (A) Each defendant charged with a class A felony shall be allowed 12 peremptory challenges.
- (B) Each defendant charged with a class B felony shall be allowed eight peremptory challenges.
- (C) Each defendant charged with a felony other than class A or class B felony shall be allowed six peremptory challenges.
- (D) Each defendant charged with a misdemeanor shall be allowed three peremptory challenges.
- (E) Additional peremptory challenges shall not be allowed on account of separate counts charged in the complaint, information or indictment.
- (F) The prosecution shall be allowed the same number of peremptory challenges as all the defendants.

(2) For crimes committed on or after July 1, 1993, peremptory challenges shall be allowed as follows:

- (A) Each defendant charged with an off-grid felony or a nondrug or drug felony ranked at severity level 1 shall be allowed 12 peremptory challenges.

(B) Each defendant charged with a nondrug felony ranked at severity level 2, 3, 4, 5 or 6, or a drug felony ranked at severity level 2 or 3, shall be allowed 8 peremptory challenges.

(C) Each defendant charged with an unclassified felony, a nondrug severity level 7, 8, 9 or 10, or a drug severity level 4 felony shall be allowed six peremptory challenges.

(D) Each defendant charged with a misdemeanor shall be allowed three peremptory challenges.

(E) The prosecution shall be allowed the same number of peremptory challenges as all defendants.

(F) The most serious penalty offense charged against each defendant furnishes the criterion for determining the allowed number of peremptory challenges for that defendant.

(G) Additional peremptory challenges shall not be allowed when separate counts are charged in the complaint, information or indictment.

(H) Except as otherwise provided in this subsection, the provisions of this section shall apply. In applying the provisions of this section, the trial court may determine the number of peremptory challenges to allow by reviewing the classification for the crime charged, or nearest comparable felony, as it was classified under the criminal law in effect prior to July 1, 1993. If the severity level of the most serious crime charged raises the potential penalty above that of another crime which was classified higher under the criminal law in effect prior to July 1, 1993, the defendant shall be allowed the number of peremptory challenges as for that higher classified crime under the prior system.

(I) The trial court shall resolve any conflicts with a liberal construction in favor of allowing the greater number of peremptory challenges.

(b) After the parties have interposed all of their challenges to jurors, or have waived further challenges, the jury shall be sworn to try the case.

(c) ~~Immediately after the jury is empaneled and sworn,~~ A trial judge may empanel one or more alternate or additional jurors whenever, in the judge's discretion, the judge believes it advisable to have such jurors available to replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable to perform their duties. Such jurors shall be selected in the same manner, have the same qualifications, and be subject to the same examination and challenges and take the same oath and have the same functions, powers and privileges as the regular jurors. *Such jurors may be selected at the same time as the regular jurors or after the jury has been empaneled and sworn, in the judge's discretion.* Each party shall be entitled to one peremptory challenge to such alternate jurors. Such alternate jurors shall be seated near the other jurors, with equal power and facilities for seeing and hearing the proceedings in the case, and they must attend at all times upon the trial of the cause in company with the other jurors. They shall obey the orders of and be bound by the admonition of the court upon each adjournment, but if the regular jurors are ordered to be kept in custody during the trial of the cause, such alternate jurors also shall be kept in confinement with the other jurors. Upon final submission of the case to the jury, the alternate jurors may be discharged or they may be retained separately and not discharged until the final decision of the jury. If the alternate jurors are not discharged on final submission of the case and if any regular juror shall be discharged from jury service in any such action prior to the jury reaching its verdict, the court shall draw the name of an alternate juror who shall replace the juror so discharged and be subject to the same rules and regulations as though such juror had been selected as one of the original jurors.”;

And by renumbering the sections accordingly;

Also on page 1, in line 39, after “K.S.A.” by inserting “22-3210, 22-3412 and”; also in line 39, by striking “is” and inserting “are”; in line 41, by striking “statute book” and inserting “Kansas register”;

In the title, in line 9, after “to” by inserting “withdrawal of guilty pleas; jury selection; alternate or additional jurors;”; in line 10, after “K.S.A.” by inserting “22-3210, 22-3412 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SCR 1610** be adopted.

Also, **SB 214** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No 214,” as follows:

“Substitute for SENATE BILL No. 214
By Committee on Natural Resources

“AN ACT concerning solid waste; relating to the waste tire management fund; amending K.S.A. 2008 Supp. 65-3424g and repealing the existing section.”;
and the substitute bill be passed.
Committee on **Transportation** recommends **SB 300, SB 302** be passed.

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 Wagle in the chair.

On motion of Senator Wagle the following report was adopted:

Recommended: **SB 54, SB 290; HB 2003, HB 2007, HB 2157, HB 2188, HB 2207, HB 2232** be passed.

SB 224, SB 241; HB 2265 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 260 be amended by motion Senator Abrams, on page 1, in line 20, following the period by inserting “The provisions of this subsection shall not apply to any person who at the time of an automobile accident has failed to maintain coverage for a period of 30 days or less and who had maintained continuous coverage for at least one year immediately prior to such failure to maintain coverage.”, and **SB 260** be passed as amended.

HB 2197 be amended by motion of Senator Lee, on page 4, in line 21, by striking “academic year 2014-2015” and inserting “the first day of the fourth academic year following the year in which the rules and regulations are adopted”, and **HB 2197** be passed as amended.

SB 248 be amended by adoption of the committee amendments, be further amended by motion of Senator Haley, on page 2, in line 22, following “that” by inserting “it”, and **SB 248** be passed as further amended.

HB 2121 be amended by adoption of the committee amendments, be further amended by motion of Senator V. Schmidt, on page 34, in line 30, after the period, by inserting “Such rules and regulations shall be promulgated on or before July 1, 2010.”, and **HB 2121** be passed as further 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 **SB 54, SB 224, SB 241, SB 248, SB 260, SB 290; HB 2003, HB 2007, HB 2121, HB 2157, HB 2188, HB 2197, HB 2207, HB 2232, HB 2265** were advanced to Final Action and roll call.

SB 54, An act concerning a mural in the capitol.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.
Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote “AYE”, along with a unanimous Senate, on **SB 54**, which compels the planning and the placing of a mural on one of our newly renovated Capitol walls. The landmark legal case of *Brown vs. Board of Education* is one of the few items in Americana for which Kansas is really and truly known.

My father, who contributed as a Kansas City attorney to the *Brown* pleadings, and I, as a law student in Washington D. C. and a staffer for former Senator Dole, took exceptional pride once when President Reagan remarked at a White House ceremony on Kansas and his own knowledge of the *Brown* decision. It speaks volumes for our unique legacy. In 2004, both President George W. Bush and then presidential candidate US Senator John Kerry

came, on the SAME day, to Topeka to commemorate the 50th Anniversary of the US Supreme Court's decision underscoring the gravamen of the premise that "separate is NOT equal" in public education and overturning the 1896 decision of *Plessy vs. Ferguson* which argued "separate could be equal."

Kansas is best known world-wide for the *Brown* decision and that, second only perhaps to the "Wizard of Oz", this is our State's best identifying legacy. This history, like the John Brown mural, is who we really and truly are and, at our best, who I personally hope Kansans always aspire to be.—DAVID HALEY

SB 224, An act concerning the emergency medical services board; authorizing the assessment of civil penalties.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pyle.

The bill passed, as amended.

SB 241, An act relating to distressed property consulting services; providing for the regulation thereof; amending K.S.A. 50-1001, 50-1002, 50-1003, 50-1004, 50-1005, 50-1006, 50-1008, 50-1009, 50-1011, 50-1016, 50-1117, 50-1118, 50-1119, 50-1121, 50-1122, 50-1124, 50-1125, 50-1126, 50-1128 and 50-1133 and repealing the existing sections.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Huelskamp, Pilcher-Cook, Pyle.

The bill passed, as amended.

SB 248, An act concerning controlled substances; creating a statewide electronic logging system for sale of methamphetamine precursor; amending K.S.A. 2008 Supp. 65-1643 and repealing the existing section; also repealing K.S.A. 2008 Supp. 65-1643b.

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

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Huelskamp, Ostmeyer.

The bill passed, as amended.

SB 260, An act concerning insurance; relating to the recovery of economic or noneconomic loss sustained as a result of an accident while operating an uninsured motor vehicle.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Faust-Goudeau, Haley, Hensley.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 260**. Due to the economic down times that we are experiencing here in the State of Kansas and due to the jobs that are being lost and the people who are filing bankruptcy and due to the practice of the insurance companies raising

premiums on the basis of low credit scores, I believe that we will have more and more uninsured drivers on our roads and highways. I have received numerous letters, e-mails, and phone calls about this issue this session, and it is a serious one. **SB 260** will add further damage.—OLETHA FAUST-GOUDEAU

SB 290, An act concerning school districts; relating to teachers and teachers' contracts; amending K.S.A. 2008 Supp. 72-5413 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Bruce, Lynn, Ostmeyer, Pilcher-Cook.

Present and Passing: Donovan.

The bill passed.

HB 2003, An act concerning postsecondary education; relating to technical education; amending K.S.A. 71-1507, 72-4408, 72-4411, 72-4412, 72-4413, 72-4414, 72-4415, 72-4418, 72-4421, 72-4422, 72-4423, 72-4425, 72-4430, 72-4431, 72-4433, 72-4466, 72-4467, 72-4471 and 74-32,141 and K.S.A. 2008 Supp. 72-4427, 72-4450, 72-4451, 72-4452, 72-4470a, 72-4482 and 74-3201b and repealing the existing sections; also repealing K.S.A. 72-4416, 72-4429, 72-4438, 72-4439, 72-4444, 72-4445, 72-4446, 72-4447, 72-4448, 72-4449, 74-3205a, 74-3205b and 74-3205c and K.S.A. 2008 Supp. 72-4436, 72-4437 and 72-4470.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2007, An act concerning state educational institutions; relating to fees and tuition; amending K.S.A. 2008 Supp. 76-719c and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2121, An act concerning agriculture; relating to pesticide and fertilizer programs; fees; fees for milk and dairy products; amending K.S.A. 2-2203, 2-2205, 2-2206, 2-2207, 2-2209, 2-2214, 2-2440a, 2-2440c, 2-2440e, 2-2446, 2-2449, 2-2450, 2-2454, 2-2455, 2-2470 and 2-2471 and K.S.A. 2008 Supp. 2-1205, 2-2202, 2-2204, 2-2438a, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2469, 2-2905, 2-2906, 2-3304, 2-3306, 2-3309, 65-778 and 65-781 and repealing the existing sections; also repealing K.S.A. 2-1211 and 2-2466.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pilcher-Cook.

The bill passed, as amended.

HB 2157, An act concerning the Topeka/Shawnee county riverfront authority act; amending K.S.A. 2008 Supp. 12-5611 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2188, An act amending the vehicle dealers and manufacturers licensing act; providing for a dealer-hauler full-privilege trailer license plate; amending K.S.A. 8-2406 and 8-2425 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2197, An act concerning state educational institutions; relating to the admission of students thereto; amending K.S.A. 76-717 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Hensley, Lee, Ostmeyer, Petersen, Pilcher-Cook, Taddiken.

The bill passed, as amended.

HB 2207, An act concerning criminal procedure; relating to release prior to trial; costs; amending K.S.A. 22-2802 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2232, An act concerning corrections advisory boards; relating to membership; amending K.S.A. 2008 Supp. 75-5297 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2265, An act concerning the legislative post audit act; relating to periodic audits of the state treasurer and the pooled money investment board; transition audits; amending K.S.A. 2008 Supp. 46-1106 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-

Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, March 13, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*
PAT SAVILLE, *Secretary of the Senate.*

