

# Journal of the Senate

FORTY-FIFTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, March 15, 2005—2:30 p.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with thirty-nine senators present.  
Senator Allen was excused.

President Morris introduced as guest chaplain, Rabbi Lawrence P. Karol, Temple Beth Shalom, Topeka, who delivered the invocation:

Eternal One, Creator and Sustainer of us all

Open our lips, that our mouths may declare the deepest wisdom and insight we can offer.

Open our hearts, that our attitudes and decisions will demonstrate our capacity to feel the concerns of others and to truly love our neighbors as ourselves; Open our eyes to see the truth, not only our own truths and ideas, but truths of others as well, and, through that understanding, help us to reach resolution, even compromise, in making law and policy; Enable us to accept and embrace changes and new realities surrounding us, so that we can grow towards the future with hope and without fear. Help us see progress even on dark and difficult days. May You inspire our thoughts and words so that they may lead to just deeds and fairness for all. Restore a pure heart within each of us every day as we begin each new session and conversation with wisdom and a steady spirit. So may it be - and let us say Amen.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

**SB 299**, An act concerning alcoholic beverages; enacting the cereal malt beverage retailers' act; providing for an increase in the maximum permitted alcohol content of cereal malt beverage under certain circumstances; amending K.S.A. 41-103, 41-312 and 41-410 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 300**, An act concerning the Kansas partnership for faculty of distinction program; relating to earnings equivalent awards; amending K.S.A. 2004 Supp. 76-775 and repealing the existing section, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1610—

By Senators Morris, D. Schmidt and Hensley

A CONCURRENT RESOLUTION relating to the adjournment of the senate and house of representatives for periods during the 2005 regular session of the legislature.

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:* That the legislature shall adjourn at the close of business of the daily session convened on March 25, 2005, and shall reconvene on March 30, 2005, pursuant to adjournment of the daily session convened on March 25, 2005; and

*Be it further resolved:* That the legislature shall adjourn at the close of business of the daily session convened on April 1, 2005, or at the close of business of the daily session convened on April 2, 2005, and shall reconvene on April 27, 2005, pursuant to adjournment of the daily session convened on April 1, 2005, or April 2, 2005; and

*Be it further resolved:* That the chief clerk of the house of representatives and the secretary of the senate and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

*Be it further resolved:* That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in subsections (a) and (b) of K.S.A. 46-137a for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

*Be it further resolved:* That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the president of the senate or the speaker of the house of representatives and members of a conference committee attending a meeting of the conference committee authorized by the president of the senate and the speaker of the house of representatives during any period of adjournment for which members are not authorized compensation and allowances pursuant to K.S.A. 46-137a shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212 except that the mileage allowance shall be limited during any such period of adjournment to one full trip by the usual route in going to and returning from an authorized meeting.

On emergency motion of Senator D. Schmidt **SCR 1610** was adopted by voice vote.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 295**.

Federal and State Affairs: **SB 297**, **SB 298**.

Ways and Means: **SB 296**.

#### MESSAGE FROM THE HOUSE

Announcing passage of **Substitute HB 2003**; **HB 2448**.

Also, passage of **SB 9**.

The House concurs in Senate amendments to **HB 2123**.

The House concurs in Senate amendments to **HB 2130**.

The House concurs in Senate amendments to **HB 2156**.

The House concurs in Senate amendments to **HB 2215**.

The House concurs in Senate amendments to **HCR 5005**.

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**Substitute HB 2003**; **HB 2448** were thereupon introduced and read by title.

#### CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 43** and requested a conference committee be appointed.

The Vice President appointed Senators Schodorf, Vratil and Lee as a conference committee on the part of the Senate.

#### REPORT ON ENROLLED BILLS

**SB 16**, **SB 104**, **SB 114**, **SB 219** reported correctly enrolled, properly signed and presented to the Governor on March 15, 2005.

**SR 1829**, **SR 1830** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 15, 2005.

#### REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2265**, as amended by House Committee, be amended on page 1, in line 30, by striking "100% of the rev.-"; in line 31, by striking "enue" and inserting "an amount"; also in line 31, by striking all after the fourth comma; by striking all in line 32; in line 33, by striking all before the second comma and inserting "from the special qualified manufacturer fund"; in line 35, by striking "existing"; in line 36, by striking "paid to jobs" and inserting "to employees";

On page 2, in line 9, by striking “at least”; also in line 9, after the first “of” by inserting “at least”; in line 16, by striking “and in”; also in line 16, by striking “that the with-”; by striking all in line 17; in line 18, by striking “credited to” and inserting “from”; in line 23, by striking “revenue from”; by striking all in line 24 and inserting “the balance of the fund”; in line 26, by striking “is not” and inserting “shall not be”; in line 27, by striking all after “manufacturer”; in line 28, by striking all before the second “the” and inserting “fails to comply with the terms and conditions set forth in”;

On page 3, in line 8, by striking “or the amount”; by striking all in lines 9 through 11; in line 12, by striking all before the period; in line 15, by striking all after the second comma; in line 16, by striking “project,”; in line 18, by striking “The” and inserting “A”; in line 27, by striking “which shall be entered into”; in line 28, by striking “before any incentives” and inserting “shall be entered into before any benefits”; in line 29, after the comma by inserting “and”; in line 31, by striking “a proportionate amount of”; in line 32, by striking “withholding” and inserting “an amount in proportion to the level that employment has fallen below the agreement, which has been”; in line 34, by striking “Incentives awarded under” and inserting “Benefits authorized pursuant to”; in line 39, by striking “Incentives which may be awarded under” and inserting “Benefits authorized pursuant to”; in line 40, after “closure” by inserting “or retooling”; in line 41, before the period by inserting “, as determined by the secretary”; after line 41, by inserting the following:

“New Sec. 4. (a) The secretary shall transmit annually to the governor, the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives and the joint committee on economic development, a report, based upon information received from each qualified manufacturer for which benefits have been issued during the preceding year, describing the following: (1) The manner in which the purpose, as described in this act, has been carried out;

(2) an estimate of jobs created and jobs preserved by cash investments made in qualified manufacturers; and

(3) an estimate of the multiplier effect on the Kansas economy of the cash investments made pursuant to this act.

(b) The secretary shall conduct an annual review of the activities undertaken pursuant to this act to ensure that benefits issued pursuant to this act are issued in compliance with the provisions of this act or rules and regulations promulgated by the department with respect to this act.

(c) Any violation of the reporting requirements set forth in this section shall be grounds for loss of designation as a qualified manufacturer under this section.

(d) If the secretary determines that a qualified manufacturer is not in substantial compliance with the requirements of this act, the secretary, by written notice, shall inform the officers of the qualified manufacturer that such qualified manufacturer will lose its designation as a qualified manufacturer unless such qualified manufacturer corrects the deficiencies and is once again in compliance with the requirements for designation.

Sec. 5. K.S.A. 2004 Supp. 12-17,122 is hereby amended to read as follows: 12-17,122. For the purposes of this act, the following terms shall have the meanings provided herein, unless the context clearly indicates, otherwise:

(a) “Base year appraised value” means the appraised value, as determined by the county appraiser, of the real property located within the boundaries of a downtown redevelopment area for the tax year immediately preceding a twelve-month period in which an investment for improvements to the real property or trade fixtures therein, equal to or exceeding 25% of the appraised value of the real property, was made;

(b) “core commercial district” means an area of a city or unincorporated area of a county characterized by a variety of compact commercial, office, residential and public uses that make it most directly analogous to central business districts commonly identified by zoning regulations;

(c) “distressed community” means an area in which 20% or more of the population of all ages for each census tract located within the area has an income below the poverty level as reported in the most recently completed decennial census published by the U.S. bureau of the census;

(d) “downtown redevelopment area” or “redevelopment area” means an area designated by the secretary of commerce pursuant to this act for the purpose of identifying real property that is eligible to receive tax benefits as provided in K.S.A. 2004 Supp. 12-17,124, and amendments thereto;

(e) “fund” means the fund created by the governing body of a city or unincorporated area of a county to comply with the requirements of this act;

(f) “governing body” means the governing body of a city or the unincorporated area of a county;

~~(g)~~ (g) “real property taxes” means all taxes levied on an ad valorem basis upon land and the improvements thereon;

~~(h)~~ (h) “secretary” means the secretary of the department of commerce; and

~~(i)~~ (i) “tax increment” means all real property taxes assessed pursuant to K.S.A. 79-1439, and amendments thereto, to the amount of the current appraised value of the property in excess of the base year appraised value of the property located within a redevelopment area or proposed redevelopment area.

Sec. 6. K.S.A. 2004 Supp. 12-17,125 is hereby amended to read as follows: 12-17,125. Real property that has been approved for downtown redevelopment tax benefits pursuant to K.S.A. 2004 Supp. 12-17,124, and amendments thereto, shall be assessed and taxed for real property tax purposes pursuant to law in the same manner that such property would be assessed and taxed if it had not been approved for downtown redevelopment tax benefits. ~~All real property taxes assessed to the base year appraised value~~ *The tax increment generated by the improvement* shall be credited to the fund created by a governing body of a city or an unincorporated area of a county for the purpose of returning all or part of the property tax increment to the taxpayer in the form of a rebate of 100% each year in years one through five, 80% in year six, 60% in year seven, 40% in year eight and 20% in year nine. No rebate shall be paid on or after the tenth year. Upon payment of taxes by the taxpayer, the rebate must be made within 30 days after the next distribution date as specified in K.S.A. 12-1678a, and amendments thereto.

Sec. 7. K.S.A. 2004 Supp. 12-17,122 and 12-17,125 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking “commerce” and inserting “economic development”; in line 11, before the period by inserting “; Kansas downtown redevelopment act; amending K.S.A. 2004 Supp. 12-17,122 and 12-17,125 and repealing the existing sections”; and the bill be passed as amended.

Committee on **Education** recommends **HB 2247**, as further amended by House Committee, be amended on page 2, in line 2, by striking “Kansas register” and inserting “statute book”; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SCR 1608** be adopted.

Committee on **Judiciary** recommends **HB 2152**, as amended by House Committee of the Whole; **HB 2168**, **HB 2327** be passed.

Also, **HB 2016**, as amended by House Committee, be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2016,” as follows:

“SENATE Substitute for HOUSE BILL No. 2016

By Committee on Judiciary

“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.”; and the substitute bill be passed.

**SB 117**, as amended by Senate Committee of the Whole, be amended on page 1, by striking all in lines 17 through 43;

By striking all on pages 2, 3 and 4;

On page 5, by striking all in lines 1 through 38, and inserting the following:

“Section 1. K.S.A. 2004 Supp. 22-4902 is hereby amended to read as follows: 22-4902.

As used in this act, unless the context otherwise requires:

(a) “Offender” means *any person who has been convicted of any of the following acts on or after January 1, 1985*: (1) A sex offender as defined in subsection (b);

(2) a violent offender as defined in subsection (d);

(3) a sexually violent predator as defined in subsection (f);

(4) any person who, ~~on and after the effective date of this act~~, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420, and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421, and amendments thereto; or

(C) criminal restraint as defined in K.S.A. 21-3424, and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto;

or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who has been convicted of an offense ~~in effect at any time prior to the effective date of this act~~, that is comparable to any crime defined in subsection (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) or (5); or

(8) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in subsection (4) or (5).

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, ~~after the effective date of this act~~:

(1) Is convicted of any sexually violent crime set forth in subsection (c) ~~or~~;

(2) is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c); or

(3) *has been convicted of any sexually violent crime and is currently in the custody of the secretary of corrections and will be released on probation, parole, conditional release or postrelease supervision.*

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502, and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A. 21-3510, and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511, and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516, and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517, and amendments thereto;

(10) aggravated sexual battery as defined by K.S.A. 21-3518, and amendments thereto;

(11) aggravated incest as defined by K.S.A. 21-3603, and amendments thereto; or

(12) any conviction for an offense ~~in effect at any time prior to the effective date of this act~~ that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(13) 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

(14) 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.

(d) "Violent offender" includes any person who, ~~after the effective date of this act~~, is convicted of any of the following crimes:

- (1) Capital murder as defined by K.S.A. 21-3439, and amendments thereto;
- (2) murder in the first degree as defined by K.S.A. 21-3401, and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402, and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403, and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404, and amendments thereto; or
- (6) any conviction for an offense ~~in effect at any time prior to the effective date of this act~~ that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in this subsection.

(i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.

Sec. 2. K.S.A. 2004 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) Any person required to register as provided in this act shall be required to register: (1) Upon the first conviction of a sexually violent crime as defined in subsection (c) of K.S.A. 22-4902, and amendments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902, and amendments thereto, or any offense as defined in subsection (d) of K.S.A. 22-4902, and amendments thereto, if not confined, for a period of 10 years after conviction, or, if confined, for a period of 10 years after paroled, discharged or released, *whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement;* or (2) upon a second or subsequent conviction for such person's lifetime.

(b) Upon the first conviction, liability for registration terminates, if not confined, at the expiration of 10 years from the date of conviction, or, if confined, at the expiration of 10 years from the date of parole, discharge or release, *whichever date is most recent. The ten-year period shall not apply to any person while the person is incarcerated in any jail or*

*correctional facility. The ten-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement. Liability for registration does not terminate if the convicted offender does not again become becomes liable to register as provided by this act during that period.*

(c) Any person who has been convicted of an aggravated offense shall be required to register for such person's lifetime. The provisions of this subsection shall expire on June 30, 2009.

(d) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(e) Any nonresident worker shall register for the duration of such person's employment. The provisions of this subsection are in addition to subsections (a) and (b).

(f) Any nonresident student shall register for the duration of such person's attendance at a school or educational institution as provided in this act. The provisions of this subsection are in addition to subsections (a) and (b).

(g) Notwithstanding any other provisions of this section, a person who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, shall be required to register until such person reaches 18 years of age or, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. *The five-year period shall not apply to any person while that person is incarcerated in any jail, juvenile facility or correctional facility. The five-year registration requirement does not include any time period when any person who is required to register under this act knowingly or willfully fails to comply with the registration requirement. Liability for registration does not terminate if the adjudicated offender again becomes liable to register as provided by this act during the required period.*

Sec. 3. K.S.A. 2004 Supp. 22-4909 is hereby amended to read as follows: 22-4909. (a) The statements or any other information required by this act shall be open to inspection by the public at the sheriff's office, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a sheriff's department or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except that the name, address, telephone number, or any other information which specifically and individually identifies the victim of any offender required to register as provided in this act shall not be disclosed other than to law enforcement agencies.

(b) *The state department of education shall annually notify any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12 of the Kansas bureau of investigation internet website and any internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the school is located for the purposes of locating offenders who reside near such school.*

(c) *The secretary of health and environment shall annually notify any licensed child care facility of the Kansas bureau of investigation internet website and any internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the facility is located for the purposes of locating offenders who reside near such facility.*

(d) *Such notification required in subsections (b) and (c) shall include information that the sheriff of the county where such school or child care facility is located is available to the school and child care facilities to assist in using the registry and providing additional information on the registered offenders.”;*

And by renumbering the remaining sections accordingly;

Also on page 5, in line 39, after the comma by inserting “22-4906 and”; also in line 39, by striking “and 22-4912”;

In the title, in line 12, by striking “criminal procedure; relating to”; in line 13, after the comma by inserting “22-4906 and”; also in line 13, by striking “and 22-4912”; and the bill be passed as amended.

**HB 2129** be amended on page 1, in line 43, by striking “Such” and inserting “On and after July 1, 2005, such attorney shall be compensated at a rate of \$65 per hour. On and after July 1, 2006, such”; and the bill be passed as amended.

**HB 2268**, as amended by House Committee, be amended on page 3, by striking all in lines 19 through 43;

On page 4, by striking all in lines 1 through 10, and inserting the following:

“New Sec. 5. (a) Any individual may register a foreign protection order in this state. To register a foreign protection order, an individual shall present a certified copy of the order to the sheriff in the county where the protection order will be enforced. Pursuant to K.S.A. 60-3112, and amendments thereto, the sheriff shall contact the issuing jurisdiction to verify the order and request that such jurisdiction enter the order into the national criminal information center and other appropriate databases.

(b) A fee of \$30 shall be charged for the registration of a foreign protection order. In any case where an individual by reason of poverty is unable to pay a registration fee and an affidavit so stating is filed, no fee will be required.”;

Also on page 4, in line 29, after “to” by inserting “all”; also in line 29, by striking “before July”; in line 30, by striking “1, 2006,”; in line 31, after “before” by inserting “and after”; also in line 31, by striking all after the comma; by striking all in lines 32 and 33; in line 34, by striking all before the period and inserting “2005”; and the bill be passed as amended.

**HB 2314**, as amended by House Committee, be amended on page 1, after line 13, by inserting the following:

“Section 1. K.S.A. 2004 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

(a) “Offender” means *any person who has been convicted of any of the following acts on or after January 1, 1985*: (1) A sex offender as defined in subsection (b);

(2) a violent offender as defined in subsection (d);

(3) a sexually violent predator as defined in subsection (f);

(4) any person who, ~~on and after the effective date of this act~~, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420, and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421, and amendments thereto; or

(C) criminal restraint as defined in K.S.A. 21-3424, and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto;

or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who has been required to register under any federal, military or other state’s law or is otherwise required to be registered;

(7) any person who has been convicted of an offense ~~in effect at any time prior to the effective date of this act~~; that is comparable to any crime defined in subsection (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) or (5); or

(8) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in subsection (4) or (5).



Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, ~~after the effective date of this act,~~

- (1) Is convicted of any sexually violent crime set forth in subsection (c) ~~or~~;
- (2) is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c); *or*
- (3) *has been convicted of any sexually violent crime and is currently in the custody of the secretary of corrections and will be released on probation, parole, conditional release or postrelease supervision.*

(c) "Sexually violent crime" means:

- (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;
- (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto;
- (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto;
- (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;
- (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto;
- (6) indecent solicitation of a child as defined by K.S.A. 21-3510, and amendments thereto;
- (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511, and amendments thereto;
- (8) sexual exploitation of a child as defined by K.S.A. 21-3516, and amendments thereto;
- (9) sexual battery as defined by K.S.A. 21-3517, and amendments thereto;
- (10) aggravated sexual battery as defined by K.S.A. 21-3518, and amendments thereto;
- (11) aggravated incest as defined by K.S.A. 21-3603, and amendments thereto; *or*
- (12) any conviction for an offense ~~in effect at any time prior to the effective date of this act~~ that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;
- (13) 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*
- (14) 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.

(d) "Violent offender" includes any person who, ~~after the effective date of this act,~~ is convicted of any of the following crimes:

- (1) Capital murder as defined by K.S.A. 21-3439, and amendments thereto;
- (2) murder in the first degree as defined by K.S.A. 21-3401, and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402, and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403, and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404, and amendments thereto; *or*
- (6) any conviction for an offense ~~in effect at any time prior to the effective date of this act~~ that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; *or*
- (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

(g) “Nonresident student or worker” includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) “Aggravated offenses” means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in this subsection.

(i) “Institution of higher education” means any post-secondary school under the supervision of the Kansas board of regents.”;

And by renumbering the remaining sections accordingly;

On page 2, after line 23, by inserting the following:

“Sec.3. K.S.A. 2004 Supp. 22-4909 is hereby amended to read as follows: 22-4909. (a)

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

(b) *The state department of education shall annually notify any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12 of the Kansas bureau of investigation internet website and any internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the school is located for the purposes of locating offenders who reside near such school.*

(c) *The secretary of health and environment shall annually notify any licensed child care facility of the Kansas bureau of investigation internet website and any internet website containing information on the Kansas offender registration sponsored or created by the sheriff of the county in which the facility is located for the purposes of locating offenders who reside near such facility.*

(d) *Such notification required in subsections (b) and (c) shall include information that the sheriff of the county where such school or child care facility is located is available to the school and child care facilities to assist in using the registry and providing additional information on the registered offenders.”;*

And by renumbering the remaining sections accordingly;

Also on page 2, in line 24, after “Supp.” by inserting “22-4902.”; also in line 24, by striking “is” and inserting “and 22-4909 are”;

In the title, in line 10, by striking “relating to timing.”; in line 11, after “Supp.” by inserting “22-4902.”; also in line 11, after “22-4906” by inserting “and 22-4909”; also in line 11, by striking “section” and inserting sections”; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 278** be passed.

Also, **HB 2315** be amended on page 1, in line 21, preceding “technical” by inserting “community college or”; in line 29, following “district” by inserting “, community college”; in line 31, preceding “or” by inserting “, community college”; in line 32, following “district” by inserting “, community college”; in line 34, following “district” by inserting “, community college”; and the bill be passed as amended,

**HB 2409** be amended on page 1, following line 26, by inserting:

“New Sec. 2. That portion of K-10 highway from the western boundary of Johnson county then east to the junction of K-10 highway and interstate highway 435 is hereby designated as the Governor John Anderson, Jr. highway. The secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the John Anderson, Jr. highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.”;

By renumbering sections accordingly;

In the title, in line 11, following the semicolon, by inserting “designating part of K-10 highway as the Governor John Anderson, Jr. highway.”; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2084**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2084,” as follows:

“SENATE Substitute for HOUSE BILL No. 2084

By Committee on Utilities

“AN ACT relating to the state corporation commission; concerning telecommunications; providing for a study of local service competition; guidelines; report.”;

and the substitute bill be passed.

Committee on **Ways and Means** recommends **SB 275; HB 2183**, as amended by House Committee, be passed.

Also, **HB 2347** be amended on page 2, after line 6, by inserting the following:

“Sec. 2. (a) The secretary of the department of administration is hereby authorized and empowered, for and on behalf of the juvenile justice authority, to convey, without consideration, to the helping hands humane society, inc., all of the rights, title and interest in the following described real estate, and any improvements thereon, located in Shawnee county, Kansas: Approximately 4.9 acres of real estate located in the northeast quarter of section 18, township 11 south, range 16 west; such 4.9 acres of real estate being located near or adjacent to the Topeka juvenile correctional facility and the Kansas juvenile correctional complex and near or adjacent to the property owned or used by the helping hands humane society, inc., as an animal shelter.

(b) Conveyance of such rights, title and interest in such real estate, and any improvements thereon, shall be executed in the name of the department of administration executed by the secretary of administration. The deed for such conveyance shall be by quitclaim deed.

(c) No exchange and conveyance of real estate and improvements thereon as authorized by this section shall be made by the secretary of administration until the deeds and conveyances have been reviewed and approved by the attorney general.

(d) All costs in any way related to the conveyance shall be paid by the helping hands humane society, inc. The conveyance of real property authorized by this section shall not be subject to the provisions of K.S.A. 75-3043a, and amendments thereto.”;

And by renumbering the remaining section accordingly;

In the title, in line 9, after “ACT” by inserting “concerning land conveyances.”; in line 11, before the period by inserting “; authorizing the secretary of the department of administration to transfer certain land”; 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 Barnett in the chair.

On motion of Senator Donovan the following report was adopted:

Recommended **SB 268; HB 2027, HB 2052, HB 2097, HB 2098, HB 2099, HB 2157, HB 2164** be passed.

The committee report on **SB 33** recommending a **Sub SB 33** be adopted, and the substitute bill be passed.

**SCR 1609** be adopted.

**SB 44, SB 263; HB 2153** be amended by adoption of the committee amendments, and the bills be passed as amended.

**HCR 5004** be amended by adoption of the committee amendments, and the resolution be adopted as amended.

**HB 2109** be amended by adoption of the committee amendments, be further amended by motion of Senator Donovan, as amended by Senate Committee, on page 3, after line 3, by inserting the following:

“Sec. 5. K.S.A. 8-2503 is hereby amended to read as follows: 8-2503. (a) Except as provided in K.S.A. 8-1344 and 8-1345, and amendments thereto, and in subsection (b), each front seat occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208 shall have a safety belt properly fastened about such person’s body at all times when the vehicle is in motion.

(b) This section does not apply to:

(1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;

(2) carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes;

(3) newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes; or

(4) an occupant of a passenger car required to be protected by a safety restraining system under the child passenger safety act.

(c) The secretary of transportation shall initiate an educational program designed to encourage compliance with the safety belt usage provisions of this act.

(d) The secretary shall evaluate the effectiveness of this act and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits under 23 U.S.C. 402.

(e) Law enforcement officers shall not stop drivers, *who are 18 years of age or older*, for violations of this act in the absence of another violation of law. A citation for violation of this act shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 4, by striking “and” and inserting a comma; also in line 4, after “8-2502” by inserting “and 8-2503”;

In the title, in line 12, by striking the first “and” and inserting a comma; also in line 12, after “8-2502” by inserting “and 8-2503”, and **HB 2109** be passed as further amended.

The following amendments offered to **HB 2109** were rejected:

Senator Journey moved to amend the bill on page 1, in line 35, by striking “18” and inserting “14”; on page 2, in line 37, by striking “18” and inserting “14”

Senator Journey moved to further amend the bill on page 2, in line 23, by striking “\$60” and inserting “\$30” and on line 29, by striking “\$60” and inserting “30”

Senator Haley having voted on the prevailing side, moved the Senate reconsider its action on **HB 2109**. The motion failed.

**HB 2140** be amended by adoption of the committee amendments, be further amended by motion of Senator Brownlee, as amended by Senate Committee, on page 7, in line 17, by striking “certified” and inserting “licensed professional”, and **HB 2140** be passed as further amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, March 16, 2005.

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

PAT SAVILLE, *Secretary of the Senate.*

