

# Journal of the Senate

TWENTY-SEVENTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, February 18, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

There is no doubt that we are caught in a serious dilemma. The whole country is.

There is an old saying that “When the going gets tough, the tough get going.” That’s probably true, O God, but going *where*?

Abraham Lincoln was caught in perhaps the worst situation any American President has ever experienced. At least North Kansas and South Kansas are not involved in a bloody war!

But to answer the question “Where do we go when the going gets tough?”

I would like to remind myself and the Senate of a confession President Lincoln made, “I have been driven many times to my knees by the overwhelming conviction that I had nowhere to go but prayer. My own wisdom and that of all about me seemed insufficient for the day.”

O God, I earnestly pray that no one in the Executive, Legislative, and Judicial branches of our state government will ever consider You irrelevant in times like these.

It’s obvious “honest Abe” did not.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **HB 2003, HB 2004, HB 2007.**

Judiciary: **SB 277, SB 278, SB 279, SB 280, SB 281; HB 2039, HB 2059.**

Transportation: **HB 2147.**

## CHANGE OF REFERENCE

The Vice President withdrew **SB 185** from the Committee on **Agriculture**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **SB 147, SB 220** from the Committee on **Public Health and Welfare**, and referred the bills to the Committee on **Ways and Means**.

The Vice President withdrew **SB 177, SB 242, SB 243, SB 244, SB 255** from the Committee on **Assessment and Taxation**, and referred the bills to the Committee on **Ways and Means**.

The Vice President withdrew **SB 241** from the Committee on **Financial Institutions and Insurance**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **SB 114** from the Committee on **Local Government**, and referred the bill to the Committee on **Federal and State Affairs**.

The Vice President withdrew **SB 12, SB 136, SB 174, SB 195** from the Committee on **Ways and Means**, and rereferred the bills to the Committee on **Financial Institutions and Insurance**.

The Vice President withdrew **SB 182, SB 184, SB 214** from the Committee on **Ways and Means**, and rereferred the bills to the Committee on **Natural Resources**.

The Vice President withdrew **SB 112, SB 157, SB 233, SB 234, SB 236** from the Committee on **Ways and Means** and rereferred the bills to the Committee on **Judiciary**.

The President withdrew **SB 217** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Utilities**.

#### **MESSAGE FROM THE GOVERNOR**

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return House Substitute for Substitute for Senate Bill No. 23 with my signature approving the bill, except for the items enumerated below.

With these line-item vetoes and accompanying allotments, the total reduction in the Fiscal Year 2009 budget, passed by the Legislature, will be \$300 million. These cuts were achieved through a strategic and responsible approach to successfully meet the budget challenges we face as a state in these difficult economic times.

I have already proposed a balanced budget for Fiscal Year 2010, and it is now time for the Legislature to turn its focus to the future, and join me in developing shared solutions to overcome the even greater challenges that lie ahead.

#### **Department of Administration**

##### **KPERS Debt Service**

Section 37 (t) has been line-item vetoed in its entirety.

Although the Legislature recognized the budgetary savings arising from restructuring several bond issuances, the restructuring of the KPERS bond cannot occur until approved by the State Finance Council. Since a meeting of the Council scheduled to discuss this issue did not occur, that approval has not yet been given. For this reason, I find it necessary to veto this portion of the bill that lapses the debt service. This will ensure the monies remain in the Department's budget so that the state does not fail to meet its obligations to make debt service payments.

#### **Department of Education**

##### **Reductions to Schools**

Section 53 (a) has been line-item vetoed in its entirety.

Section 53 (b) has been line-item vetoed in its entirety.

Drastically reducing state aid to schools, with only three months left in the school year, leaves children, parents and teachers in a needless financial predicament. Similarly, reducing funding for special education services in the middle of the school year is pointlessly punitive to those students in need of additional assistance. The state also must preserve special education funding to ensure we can access federal stimulus funds requiring maintenance of effort in special education spending at the state level.

Through allotment authority, I intend to follow the lead of the bipartisan efforts in the Legislature to reduce school funding by only \$33 per pupil, instead of the more severe \$66 per pupil as agreed to in conference committee on SB 23.

#### **University of Kansas Medical Center**

##### **Wichita Center for Graduate Medical Education**

Section 66 (e) has been line-item vetoed in its entirety.

The revised fiscal year 2009 budget already includes \$2.5 million in additional funding for the Wichita Center for Graduate Medical Education. I will be asking the Kansas Board of Regents to make a full and comprehensive recommendation for WCGME funding in the FY 2010 budget and look forward to working with the Legislature to act on their proposal.

**Health Care Stabilization Fund****Transfer Limitation**

Section 86 (b) has been line-item vetoed in its entirety.

With this veto and accompanying allotment, I am restoring my original budget recommendations to limit transfers to the Health Care Stabilization Fund, helping to preserve State General Fund balances.

**Kansas Bioscience Authority****Transfer Limitation**

Section 86 (h) has been line-item vetoed in its entirety.

With this veto and accompanying allotment, I am restoring my original budget recommendations to limit transfers to the Kansas Bioscience Authority, helping to preserve State General Fund balances.

Approved: February 17, 2009

Signed: Kathleen Sebelius

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2001, HB 2023, HB 2099, HB 2115, HB 2172, HB 2221.**

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2001, HB 2023, HB 2099, HB 2115, HB 2172, HB 2221** were thereupon introduced and read by title.

**FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS**

**Sub SB 28**, An act concerning crimes, criminal procedure and punishment; relating to unlawful possession of a controlled substance or controlled substance analog; amending K.S.A. 21-4603d and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 4, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Faust-Goudeau, Francisco, Haley, Steineger.

Absent or Not Voting: Reitz.

The substitute bill passed.

**SB 46**, An act concerning port authorities; relating to sale of certain real or personal property; amending K.S.A. 12-3412 and repealing the existing section, was considered on final action.

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

Yeas: 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, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

**SB 60**, An act concerning counties; relating to the sale of real property; relating to re-development districts within a federal enclave; amending K.S.A. 19-211 and repealing the existing section, was considered on final action.

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

Yeas: 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, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

**SB 122**, An act relating to motor vehicles; concerning rebuilt salvage vehicles; amending K.S.A. 79-5104 and K.S.A. 2008 Supp. 8-135 and repealing the existing sections, was considered on final action.

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

Yeas: 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, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pilcher-Cook.

Absent or Not Voting: Reitz.

The bill passed.

**SB 145**, An act regulating traffic; concerning driving in the right lane; amending K.S.A. 8-1522 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 6, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Francisco, Huelskamp, Lee, Pilcher-Cook, Pyle, Wagle.

Absent or Not Voting: Reitz.

The bill passed.

**SB 148**, An act concerning missing elderly persons; establishing the Kansas silver alert plan, was considered on final action.

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

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

Nays: Pilcher-Cook.

Present and Passing: Francisco.

Absent or Not Voting: Reitz.

The bill passed, as amended.

**SB 168**, An act concerning electronic transactions; making certain acts unlawful; amending K.S.A. 16-1617 and repealing the existing section, was considered on final action.

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

Yeas: 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, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed, as amended.

**SB 171**, An act concerning Sherman county; pertaining to the election of county commissioners; amending K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and repealing the existing sections, was considered on final action.

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

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

Nays: Francisco.

Absent or Not Voting: Reitz.

The bill passed.

**SB 187**, An act enacting the state fire marshal commissioned inspector act, was considered on final action.

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

Yeas: 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, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

**SB 219**, An act concerning retirement and pensions; relating to the Kansas public employees retirement system; death and disability benefits; employer contributions; amending K.S.A. 2008 Supp. 74-4927 and repealing the existing section, was considered on final action.

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

Yeas: 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, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed, as amended.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Huelskamp, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Pilcher-Cook, Pyle, D. Schmidt, Taddiken, Teichman, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1828—

A RESOLUTION urging the Kansas Congressional Delegation to oppose legislation that disenfranchises workers by removing their right to a private ballot union election.

WHEREAS, The right to a private, secret ballot when voting on external representation is fundamentally inherent in our representative Republic and shall not be infringed upon; and

WHEREAS, Passing the Employee Free Choice Act (EFCA; H.R. 800/S. 1041 as introduced in the 110th Congress) will replace a federally supervised private ballot election with a system that facilitates coercion and intimidation, known as “card check”, whereby employees publically sign cards to vote for unionization; and

WHEREAS, 79% of the American people support a worker’s right to a federally supervised secret ballot election when deciding whether or not to join a union; and

WHEREAS, Agreement in opposition to the EFCA is overwhelming; with 77% of Republicans, 82% of Democrats and 79% of independents believing in protecting private ballots; and

WHEREAS, In July 2002, before a United States House of Representatives subcommittee, a union employee testified that those who would not vote for a union in a public “card check” program were threatened with termination, deportation and loss of 401(k) and health benefits; and

WHEREAS, Chairman of the United States House of Representatives Education and Labor Committee, Representative Miller (D-CA), a staunch supporter of the American “card check” bill, sent a letter to Mexican government officials which stated, “. . . we feel that the private ballot is absolutely necessary in order to ensure workers are not intimidated into voting for a union they may otherwise not choose.”; and

WHEREAS, The Employee Free Choice Act’s mandatory binding arbitration provisions deny workers the right to participate in the collective bargaining process between employees and the union: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we find so-called “card check” legislation such as the Employee Free Choice Act to be detrimental to the rights of workers and an offence against democratic principles and that we urge all the members of the Kansas Congressional Delegation to support worker freedom by opposing the EFCA and any of its components in 2009 and in future years; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to each member of the Kansas Congressional Delegation.

#### REPORT ON ENGROSSED BILLS

**SB 25** reported correctly engrossed February 18, 2009.

#### REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 120** be passed.

Also, **SB 160** be amended on page 1, in line 18, by striking “September 1, 2009” and inserting “January 1, 2010”; in line 20, by striking “September 1, 2009” and inserting “January 1, 2010”; in line 22, by striking all after “(b)”; by striking all in lines 23 through 30 and inserting: “In calculating such minimum wage rate, an employer may include tips and gratuities received by an employee if such tips and gratuities have customarily constituted part of the remuneration of the employee and if the employee concerned actually received and retained such tips and gratuities. For employees receiving tips and gratuities, the employer shall pay a minimum wage of at least \$2.13 an hour. If when combined with the minimum wage rate prescribed in this subsection the amount of the employee’s tips and gratuities are:

(1) At least equal to \$7.25 an hour, no further payment is required by the employer; or

(2) less than \$7.25 an hour, the employer must pay the employee the difference between \$7.25 an hour and the actual hourly amount received by the employee determined by combining the amount of tips and gratuities received by the employee with the minimum wage prescribed by this subsection paid by the employer.”; and the bill be passed as amended.

Committee on **Education** recommends **SB 9** be amended on page 1, by striking all in lines 14 through 43;

By striking all on page 2;

On page 3, by striking all in lines 1 through 3; following line 3, by inserting:

“Section 1. (a) Sections 1 through 9, and amendments thereto, shall be known and may be cited as the state educational institution project delivery construction procurement act.

(b) The provisions of this act shall apply only to construction projects and construction project services totally funded by non-state moneys.

Sec. 2. As used in this act, unless the context expressly provides otherwise:

(a) “State educational institution” or “institution” means Fort Hays state university, Kansas state university of agriculture and applied science, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, Wichita state university and Kansas state university, college of technology at Salina.

(b) “Alternative project delivery” means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor team is selected based on a qualifications and best value approach.

(c) “Ancillary technical services” include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing

air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the institution to be required for the project.

(d) "Architectural services" means those services described by subsection (e) of K.S.A. 74-7003, and amendments thereto.

(e) "Best value selection" means a selection based upon project cost, qualifications and other factors.

(f) (1) "Building construction" means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure.

(2) "Building construction" does not include highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(g) "Construction project services" means the process of planning, acquiring, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(h) "Construction management at-risk services" means the services provided by a firm which has entered into a contract with the institution to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to scheduling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees and construction coordination.

(i) "Construction management at-risk contract" means a contract under which an institution acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(j) "Construction manager or general contractor" means any individual, partnership, joint venture, corporation, or other legal entity who is a member of the integrated project team with the institution, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(k) "Design criteria consultant" means a person, corporation, partnership, or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to K.S.A. 74-7003, and amendments thereto, and who is employed by contract to the institution to provide professional design and administrative services in connection with the preparation of the design criteria package.

(l) "Engineering services" means those services described by subsection (i) of K.S.A. 74-7003, and amendments thereto.

(m) "Guaranteed maximum price" means the cost of the work as defined in the contract.

(n) "Non-state moneys" has the meaning ascribed thereto by K.S.A. 76-756, and amendments thereto.

(o) "Parking lot" means a designated area constructed on the ground surface for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act. A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(p) "Preconstruction services" means a series of services including, but not limited to: Design review, scheduling, cost control, value engineering, constructability evaluation and preparation and coordination of bid packages.

(q) (1) "Construction project" or "project" means the process of designing, constructing, reconstructing, altering or renovating a building or other structure.

(2) "Construction project" or "project" does not mean the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

(r) "Procurement committee" means the state educational institution procurement committee established by section 6, and amendments thereto.

(s) "State board" means the state board of regents.

Sec. 3. (a) The procedure established in this section shall be used unless the use of the alternative project delivery process is determined appropriate as provided by section 6, and amendments thereto.

(b) All contracts for construction projects and construction project services shall be let by the institution to the lowest responsible bidder based on plans and specifications prepared for the project that received prior approval by the state board and the secretary of administration.

(c) (1) Upon any construction project for which plans and specifications will be prepared and bids let for the project as a whole the general contractor shall submit with the bid the names and addresses of subcontractors in accordance with paragraph (2) of this subsection. The general contractor shall submit the name and address of the electrical subcontractor for the electrical work portions of the project and the name and address of the mechanical subcontractor for the mechanical work portions of the project, if the general contractor will be subcontracting for such work. If there are project alternates listed in the bid documents and the general contractor's choice of subcontractors is dependent upon the combination of project alternates the state chooses, the general contractor shall submit for each combination of project alternates under which any subcontractor would change from the one named in the base bid, at the time such contractor submits such bid: (A) The name and address of the electrical subcontractor, if the general contractor will be subcontracting for the electrical work portions thereunder; and (B) the name and address of the mechanical subcontractor, if the general contractor will be subcontracting for the mechanical work portions thereunder. All changes and substitutions in listed subcontractors shall be subject to approval of the institution.

(2) The state board shall adopt a standard contract for use in connection with construction projects upon which bids are let for the project as a whole. No such standard contract adopted by the state board shall contain any provisions authorizing arbitration of any matters thereunder.

(3) The state board may adopt rules and regulations necessary for the implementation and administration of the provisions of this subsection.

(d) The provisions of this section shall not be construed to prohibit the administrative head of an institution from making any improvement or improvements when the same can be made by institutional labor or the use of material manufactured by an institution.

(e) The institution's purchasing department shall solicit sealed bids by publishing a notice once in the Kansas register not less than 10 days before the date stated in the notice for the opening of the bids. The institution's purchasing department with the approval of the state board may waive this publication of notice requirement when the state board determines that a more timely procurement is in the best interest of the institution. The institution's purchasing department also may designate a trade journal for the publication. The institution's purchasing department also may solicit such bids by sending notices by mail to prospective bidders and by posting the notice on a public bulletin board for at least 10 business days before the date stated in the notice for the opening of the bids unless otherwise provided by law. All bids shall be sealed when received and shall be opened in public at the hour stated in the notice.

(f) Competitive bids shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids.

(g) The institution's purchasing department shall have power to decide as to the lowest responsible bidder for all purchases, but if:

(1) The dollar amount of the bid received from the lowest responsible bidder from within the state is identical to the dollar amount of the bid received from the lowest responsible



bidder from without the state, the contract shall be awarded to the bidder from within the state; and

(2) The institution's purchasing department may reject the bid of any bidder who is in arrears on taxes due the state, who is not properly registered to collect and remit taxes due the state or who has failed to perform satisfactorily on a previous contract with the state.

(h) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the institution's purchasing department for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection as required by the Kansas open records act.

Sec. 4. Each change order to a contract entered into under the provisions of this act shall be related to an item or a matter that was included within the original program statement which was prepared and submitted with the capital improvement budget estimate for the project. Each such change order may be negotiated with a contractor performing work under the original contract for the project.

Sec. 5. (a) Construction projects shall not be subject to any building permit requirement or building code of any county, township, district, city or other political subdivision of this state or fees charged therefor. No construction project shall be subject to any inspection requirement or any requirement to obtain any permit, license or other instrument of approval for the project which is imposed by any city, township, district, city or other political subdivision of this state, except that such project shall be subject to reasonable inspections for the sole purpose of allowing members of the police and fire departments and other public emergency services personnel to become familiar with the project. As used in this section "building code" means any building code and includes any plumbing code, electrical wiring code, gas piping code or similar code. This act shall apply to all construction projects in existence prior to the effective date of this act and to those commenced on or after the effective date.

(b) Construction projects shall be exempt from the payment of fees relating to local zoning ordinances and resolutions, but the state shall reimburse a political subdivision for any related publication expenses incurred by the political subdivision.

Sec. 6. (a) As an alternative to the procedure established in section 3, and amendments thereto, the state board may establish an alternative project delivery program under which construction management at-risk procurement processes may be utilized for state educational institution construction projects. This authorization for construction management at-risk procurement shall be for the sole and exclusive use of planning, acquiring, designing, building, equipping, altering, repairing, improving or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property.

(b) The state board shall establish a state educational institution procurement committee which shall be composed of five members, or their designees, as follows: (1) The director of facilities at the state board who shall serve as chairperson of the committee; (2) an architect or engineer from a state educational institution; (3) a representative of the associated general contractors of Kansas appointed from a list of at least three nominees submitted by the association to the state board; (4) a representative of the American institute of architects appointed from a list of at least three nominees submitted by the association to the state board; and (5) a representative of the American council of engineering companies appointed from a list of at least three nominees submitted by the association to the state board.

(c) The procurement committee shall review and approve requests for the utilization of alternative project delivery under the state educational institution project delivery building construction procurement act for capital improvement projects financed totally from non-state moneys. If the committee approves a request for utilization of alternative project delivery, the committee shall provide a shortlist of construction managers/design builders for use in such capital improvement project.

(d) The procurement committee shall approve those projects for which the use of alternative project delivery procurement process is appropriate. In making such determination, the committee shall consider the following factors:

(1) The likelihood that the alternative project delivery method of procurement selected will serve the public interest by providing substantial savings of time or money over the traditional design-bid-build delivery process.

(2) The ability to overlap design and construction phases is required to meet the needs of the end user.

(3) The use of an accelerated schedule is required to make repairs resulting from an emergency situation.

(4) The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of designers and constructors to solve project challenges during the design or preconstruction phase.

(5) The use of an alternative project delivery method will not encourage favoritism in awarding the public contract or substantially diminish competition for the public contract.

(e) When a request is made for alternative delivery procurement by a state educational institution, the institution on behalf of the state board shall publish a notice in the Kansas register that the procurement committee will be holding a public hearing with the opportunity for comment on such request. Notice shall be published at least 15 days prior to the hearing.

(f) If the procurement committee finds that the project does not qualify for the alternative project delivery methods included under this act, then the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the state board which shall be consistent with the provisions of this act.

(g) When it is necessary in the judgment of an institution to obtain project services for a particular project as described under this act, the institution shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such request in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the institution.

Sec. 7. Construction management at-risk project delivery procedures shall be conducted as follows:

(a) The state board shall determine the scope and level of detail required to permit qualified construction manager or general contractors to submit construction management at-risk proposals in accordance with the request for proposals given the nature of the project.

(b) Prior to completion of the construction documents, but as early as during the schematic design phase, the construction manager or general contractor shall be selected. The project design professional may be employed or retained by the institution to assist in the selection process.

(c) The institution shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such requests in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the institution.

(d) The state board shall solicit proposals in a three stage qualifications based selection process. Phase I shall be the solicitation of qualifications and prequalifying a minimum of three but no more than five construction managers or general contractors to advance to phase II. Phase II shall be the solicitation of a request for proposal for the project, and phase III shall include an interview with each proposer to present their qualifications and answer questions.

(1) Phase I shall require all proposers to submit a statement of qualifications which shall include, but not be limited to:

- (A) Similar project experience;
- (B) experience in this type of project delivery system;
- (C) references from design professionals and owners from previous projects;
- (D) description of the construction manager's or general contractor's project management approach;
- (E) financial statements; and
- (F) bonding capacity.

Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capacity to the procurement committee with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(2) The procurement committee shall evaluate the qualifications of all proposers in accordance with the instructions of the request for qualifications. The procurement committee shall prepare a short list containing a minimum of three and maximum of five qualified firms, which have the best and most relevant qualifications to perform the services required of the project, to participate in phase II of the selection process. If three qualified proposers cannot be identified, the selection process shall cease. The procurement committee shall have discretion to disqualify any proposer that, in the procurement committee's opinion, lacks the minimal qualifications required to perform the work.

(3) Phase II of the process shall be conducted as follows:

(A) Prequalified firms selected in phase I shall be given a request for proposal. The request for proposal shall require all proposers to submit a more in depth response including, but not be limited to:

- (i) Company overview;
- (ii) experience or references, or both, relative to the project under question;
- (iii) resumes of proposed project personnel;
- (iv) overview of preconstruction services;
- (v) overview of construction planning;
- (vi) proposed safety plan;
- (vii) fees, including fees for preconstruction services, fees for general conditions, fees for overhead and profit and fees for self-performed work, if any.

(4) Phase III shall be conducted as follows:

(A) (i) Once all proposals have been submitted, a negotiating committee shall interview all of the proposers, allowing the competing firms to present their proposed team members, qualifications and project plan and to answer questions. Interview scores shall not account for more than 50% of the total possible score.

(ii) A negotiating committee shall be composed of the head of the institution for which the proposed construction project is planned, or a person designated by the head of the institution, and two other persons designated by the head of the institution for which the proposed project is planned.

(B) The negotiating committee shall select the firm providing the best value based on the proposal criteria and weighting factors utilized to emphasize important elements of each project. All scoring criteria and weighting factors shall be identified by the institution in the request for proposal instructions to proposers. The negotiating committee shall proceed to negotiate with and attempt to enter into a contract with the firm receiving the best total score to serve as the construction manager or general contractor for the project. If the negotiating committee be unable to negotiate a satisfactory contract with the firm scoring the best total score, negotiations with that firm shall be terminated, and the committee shall undertake negotiations with the firm with the next best total score, in accordance with this section.

(C) If the negotiating committee determines that it is not in the best interest of the institution to proceed with the project pursuant to the proposals offered, the negotiating committee shall reject all proposals. If all proposals are rejected, the state board may solicit new proposals using different design criteria, budget constraints or qualifications.

(D) The contract to perform construction management at-risk services for a project shall be prepared by the institution and entered into between the institution and the firm performing such construction management at-risk services. A construction management at-risk contract utilizing a cost plus guaranteed maximum price contract value shall return all savings under the guaranteed maximum price to the institution.

(E) The institution shall publish a construction services bid notice in the Kansas register and in such other appropriate manner for the construction manager or general contractor as may be determined by the institution. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager

or general contractor and the institution. The institution may allow the construction manager or general contractor to self-perform construction services provided the construction manager or general contractor submits a bid proposal under the same conditions as all other competing firms. If a firm submitting a bid proposal fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection. At the time for opening the bids, the construction manager or general contractor shall evaluate the bids and shall determine the lowest responsible bidder except in the case of self-performed work for which the institution shall determine the lowest responsible bidder. The construction manager or general contractor shall enter into a contract with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

Sec. 8. (a) Each state educational institution may initiate and complete construction projects on state-owned property of the state educational institution from any non-state moneys granted, given to or otherwise received by the state educational institution if the construction projects have received prior approval by the state board and the plans and specifications for such projects have received prior approval by the secretary of administration. Such construction projects shall be totally financed from non-state moneys and the buildings and facilities shall become the property of the state of Kansas upon completion and acceptance by the secretary of administration. No such construction project for the construction of a building or facility shall be approved by the state board without having first advised and consulted with the joint committee on state building construction.

(b) A state educational institution may initiate and complete construction projects for repairs, remodeling or renovation of buildings and facilities located on state-owned property of the state educational institution from any non-state moneys granted, given to or otherwise received by the state educational institution if the construction projects for such repairs, remodeling or renovations have received prior approval by the state board and the plans and specifications for such projects have received prior approval by the secretary of administration. Such construction projects shall be totally financed from non-state moneys and the repairs, remodeling or renovations shall become the property of the state of Kansas upon completion and acceptance by the secretary of administration. No such construction projects to repair, remodel or renovate a building or facility shall be approved by the state board without having first advised and consulted with the joint committee on state building construction.

(c) Construction projects financed totally from non-state moneys shall be exempt from the provisions of K.S.A. 75-1251, 75-1252, 75-1253, 75-1254, 75-1255, 75-1256, 75-1257, 75-1258, 75-1259, 75-1260, 75-1261, 75-1262, 75-1263, 75-1264, 75-1265, 75-1266, 75-1267, 75-1268, 75-3739, 75-3740, 75-3740a, 75-3741, 75-3741a, 75-3741b, 75-3742, 75-3743, 75-3744, 75-5802, 75-5803, 75-5804, 75-5805, 75-5806 and 75-5807 and K.S.A. 2008 Supp. 75-37,141 75-37,142, 75-37,143 and 75-37,144, and amendments thereto. Such construction projects shall be inspected by the secretary of administration.

Sec. 9. The state board may adopt any rules and regulations necessary to implement the provisions of this act.”;

And by renumbering the remaining section accordingly;

In the title, in line 9, by striking “capital im-”; by striking all in line 10; in line 11, by striking all before the period and inserting “construction improvement projects”; and the bill be passed as amended.

Also, **SB 84** be amended on page 1, in line 19, by striking all after the period; in line 20, by striking “covered in the program shall include, but not be limited to”; in line 21, by striking the colon; by striking all in lines 22 through 38;

On page 2, in line 3, after “develop” by inserting “state curriculum”; also in line 3, by striking “and objec-”; in line 4, by striking “tives”; in line 8, by striking “or similar” and inserting “, family and consumer science, accounting or other appropriate”; in line 10, by striking “sim-”; in line 11, by striking “ilar personal financial topics” and inserting “other topics concerning personal financial literacy”; in line 16, after “from” by inserting “and after July 1, 2012.”; and the bill be passed as amended.

**SB 175** be amended on page 1, in line 35, by striking “donee” and inserting “donor”; and the bill be passed as amended.

**SB 225** be amended on page 2, in line 35, after “each” by inserting “state fiscal”; in line 39, before the period, by inserting “, except that the amount transferred from the state general fund to the Kansas postsecondary education savings program trust fund shall not exceed the maximum amount specified by appropriation act for such purpose for that state fiscal year”;

On page 3, by striking all in lines 5 through 13;

And by relettering the remaining subsection accordingly;

Also on page 3, in line 18, by striking “Kansas register” and inserting “statute book”; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 115, SB 215** be passed.

Also, **SB 107** be amended on page 4, in line 37, by striking “and \$100 prize limit” and inserting “, \$100 prize limit and the \$3 charge limit”;

On page 5, in line 29, after “shift” by inserting “and consumed on the premises”; in line 33, by striking “\$1,800” and inserting “\$1,500”;

On page 6, after line 15, by inserting the following:

“(j) The charge made by a licensee for a bingo card or equivalent number of bingo faces to play in regular bingo games in any one session shall not exceed \$3. Such bingo card or equivalent number of bingo faces shall be valid for all such regular bingo games conducted or operated by the licensee in any one session. The charge made by a licensee for a single bingo card or bingo face to play in any single, mini or progressive special game shall not exceed \$3. The charge made by a licensee for a single instant bingo ticket shall not exceed \$3.”;

And by relettering the remaining subsections accordingly;

Also on page 6, in line 42, by striking “Only” and inserting “Except as otherwise provided, only”; in line 43, by striking “\$500” and inserting “\$100”;

On page 7, in line 3, by striking “six” and inserting “five”; in line 5, after the period, by inserting “Each licensee may conduct two drawings within a licensed year with a non-monetary prize having a value not exceeding \$500. Such drawings shall be included in the total number of drawings conducted for the month in which they are held.”; after line 13, by inserting the following:

“(r) No premises shall be used for the management, operation or conduct of games of bingo by licensees on more than four calendar days in any one week.”;

And by relettering the remaining subsections accordingly;

On page 8, in line 3, by striking “two hours” and inserting “90 minutes”;

On page 9, in line 38, by striking “two hours” where it appears both times, and inserting “90 minutes” in both places; and the bill be passed as amended.

**SB 178** be amended on page 1, after line 16, by inserting the following:

“New Sec. 2. The secretary of the department of labor is hereby authorized to adopt rules and regulations necessary to implement and enforce the provisions of K.S.A. 2008 Supp. 44-1601 through 44-1612 and section 1, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

On page 2, in line 7, by striking “consecutive”; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 240** be passed.

Also, **SB 105** be amended on page 7, following line 29, by inserting the following:

“(d) The commissioner shall remit all such fines collected under subsection (c) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.”;

Also on page 7, in line 30, by striking “(d)” and inserting “(e)”;

On page 14, in line 20, following the period by inserting “The commissioner shall adopt such rules and regulations by July 1, 2010.”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 69** be passed.

Also, **SB 237** be amended on page 2, in line 21, after “dealer” by inserting “, or employee or agent of a dealer,”; in line 22, after “dealer” by inserting “, or employee or agent of such dealer”; in line 31, after “dealer” where it appears the second time, by inserting “, or employee or agent of the dealer,”;

On page 3, in line 36, after “dealer” by inserting “, or employee or agent of the dealer,”;

On page 4, in line 5, after “dealer” by inserting “, or employee or agent of the dealer,”; in line 12, after “dealer” by inserting “, or employee or agent of the dealer,”; in line 19, after “dealer” by inserting “, or employee or agent of the dealer,”; also in line 19, by striking “, directly or”; in line 20, by striking “indirectly,”; by striking all in lines 21 and 22; in line 23, by striking “person offering it”; in line 24, after “dealer” by inserting “, or employee or agent of the dealer,”; in line 31, by striking “and” and inserting “or”; in line 32, by striking “and” and inserting “or”; in line 35, by striking “and” and inserting “or”; in line 42, by striking “and” and inserting “or”;

On page 5, in line 4, after “hydrants” by inserting “or fire hydrant caps”; in line 8, before the period by inserting “, in whole or in part”; in line 9, after “dealer” by inserting “, or employee or agent of the dealer,”; and the bill be passed as amended.

**SB 238** be amended on page 1, in line 18, after the semicolon by inserting “or”; in line 20, by striking “; or (4) attending the unlawful”; in line 21, by striking all before the period; after line 25, by inserting the following:

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

Also on page 1, after line 28, by inserting the following:

“(f) Unlawful attendance of cockfighting is a class B nonperson misdemeanor.”;

And by relettering the remaining subsections accordingly; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 37** be amended on page 1, in line 30, after “rear” by inserting “, a slow moving vehicle emblem, as defined in K.S.A. 8-1717, and amendments thereto,” and the bill be passed as amended.

Also, **SB 59** be amended on page 2, in line 7, by striking “Persons” and inserting the following:

“(1) From and after the effective date of this act and prior to June 30, 2009, a law enforcement officer shall issue a warning citation to anyone violating subsection (a) of K.S.A. 8-2503, and amendments thereto.

(2) On and after June 30, 2009, persons”;

Also on page 2, in line 11, before the period, by inserting “\$25”; in line 19, by striking “statute book” and inserting “Kansas register”; and the bill be passed as amended.

**SB 152** be amended on page 1, after line 43, by inserting the following:

“(8) Every public motor carrier or private motor carrier who operates on any street, highway, road, alley or parking lot in the state, a motor vehicle with a load of gravel which has the potential, due to the nature of the load to spill, drop, blow or otherwise escape, shall have a cover, which cover shall be securely fastened so as to prevent such cover or the load from spilling, dropping, blowing, or otherwise escaping or in any manner becoming a hazard to other users of such street, highway, road, alley or parking lot.

(9) Every public motor carrier or private motor carrier who operates a motor vehicle, including, but not limited to, trucks or trailers, with a gross vehicle weight rating of 26,000 pounds or less, with a load above the sidewalls of a truck bed or trailer which has the potential because of the nature of the load, to drop, leak, blow or otherwise escape from the motor vehicle shall be adequately strapped to fasten the load securely to the vehicle.”;

On page 2, in line 6, by striking “Any” and inserting “Except as provided in paragraph (3), any”; in line 34, by striking “Persons” and inserting the following:

“(A) Except for motor vehicles under subparagraph (B), motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards, and except that such motor vehicles shall be subject to rules and regulations adopted pursuant to paragraphs (8) and (9) of K.S.A. 66-1,129, and amendments thereto.,

(B) Except vehicles transporting hazardous materials which require placards, motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work and such tools, property or material are being transported to or from an active construction site located within a radius of 25 miles of the principal place of business of the

motor carrier, except that such motor vehicles shall be subject to rules and regulations adopted pursuant to paragraphs (8) and (9) of K.S.A. 66-1,129, and amendments thereto.

(4) persons”;

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 Umbarger in the Chair.

On motion of Senator Umbarger the following report was adopted:

Recommended, **SB 83, SB 159, SB 183** be passed.

**SB 53, SB 64, SB 72, SB 79, SB 173, SB 200** be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee recommended **SB 103** be passed.

A motion by Senator Haley to amend **SB 103** failed and the following amendment was rejected: on page 3, after line 17, by inserting the following:

“Sec. 4. K.S.A. 25-2425 is hereby amended to read as follows: 25-2425. (a) Voting machine fraud is: ~~(a)~~ (1) Being in unlawful or unauthorized possession of a voting machine key.

~~(b)~~ (2) Intentionally tampering with, altering, disarranging, defacing, impairing or destroying any voting machine, automatic ballot, voting machine label or register or record made by a voting machine.

(b) For the purposes of this section:

(1) “Ballot” means a paper ballot on which candidates’ names or questions are printed and which:

(A) Is designed to receive opaque marks which can be detected by optical scanning equipment; and

(B) which is capable of being counted manually.

“Ballot” includes an electronic display or printed document containing the offices and questions on which voters in a specified voting area are eligible to vote.

(2) “Counting location” means the location in the county selected by the county election officer for the automatic processing or counting, or both, of ballots.

(3) “Direct recording electronic system” means a system that records votes by means of a ballot display provided with mechanical or electro-optical components that can be activated by the voter, that processes data by means of a computer program, that records voting data and ballot images in memory components, that produces a tabulation of the voting data stored in a removable memory component and as printed copy, and that may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from precincts at the central location.

(4) “Electronic or electromechanical voting system” means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment including a direct recording electronic system.

(5) “Voting machine” means any device for the collection of votes which has been approved and certified by the secretary of state pursuant to K.S.A. 2008 Supp. 25-4404 and amendments thereto.

(c) Voting machine fraud is a severity level 10, nonperson felony.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 18, after “K.S.A.” by inserting “25-2425 and K.S.A.”;

In the title, in line 9, by striking “relating to certain primary elections.”; in line 10, after “K.S.A.” by inserting “25-2425 and K.S.A.”

A second motion by Senator Haley to amend **SB 103** failed and the following amendment was rejected: on page 3, after line 17, by inserting the following:

“New Sec. 4. (a) No funds received by the secretary of state from any source whatsoever shall be used for the initial purchase, upgrade, retrofit or equipping of any electronic or computerized voting machine or direct recording voting system, or any equipment related thereto, unless such electronic or computerized voting machine or direct recording voting

system includes or is equipped with an accessible voter verified paper audit trail as such term is defined in subsection (l) of K.S.A. 2008 Supp. 25-4406 and amendments thereto.

(b) The provisions of this section are a part of and supplemental to the electronic and electromechanical voting systems act.

Sec. 5. K.S.A. 2008 Supp. 25-4406 is hereby amended to read as follows: 25-4406. Electronic or electromechanical voting systems approved by the secretary of state:

(a) Shall provide for voting for the candidates for nomination or election of all political parties officially recognized pursuant to K.S.A. 25-302a, and amendments thereto;

(b) shall permit a voter to vote for any independent candidate for any office;

(c) shall provide for voting on constitutional amendments or other questions submitted;

(d) shall be so constructed that, as to primaries where candidates are nominated by political parties, the voter can vote only for the candidates for whom the voter is qualified to vote according to articles 2 and 33 of chapter 25 of the Kansas Statutes Annotated and amendments thereto;

(e) shall afford the voter an opportunity to vote for any or all candidates for an office for whom the voter is by law entitled to vote and no more, and at the same time shall prevent the voter from voting for the same candidate twice for the same office;

(f) shall be so constructed that in presidential elections the presidential electors of any political party may be voted for by one action;

(g) shall provide for "write-in" votes;

(h) shall provide for voting in absolute secrecy, except as to persons who request assistance due to temporary illness or disability or a lack of proficiency in reading the English language;

(i) shall reject all votes for an office or upon a question submitted when the voter has cast more votes for such office or upon such question than the voter is entitled to cast;

(j) shall provide for instruction of voters on the operation of voting machines, illustrating the manner of voting by the use of such systems. The instruction may include printed materials or demonstration by election board workers; and

(k) shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.

(l) (1) *No electronic or computerized voting machine shall be approved for use in this state unless such electronic voting machine provides for a paper record of each electronically generated ballot that can be:*

(A) *Reviewed and corrected by the voter at the time the vote is cast; and*

(B) *used for a recount of the votes cast at an election in which electronically generated ballots are used.*

(2) (A) *On and after January 1, 2010, no direct recording voting system shall be used in this state unless such voting system has an accessible voter verified paper audit trail.*

(B) *For the purposes of this provision, "accessible voter verified paper audit trail" means a component of an electronic or computerized voting machine that prints a contemporaneous paper record copy of each electronic ballot and allows each voter to confirm such voter's selections before the voter casts such voter's ballot."*

And by renumbering the remaining sections accordingly;

Also on page 3, in line 18, after "25-2108a" by inserting ", 25-4406";

In the title, in line 10, after "25-2108a" by inserting ", 25-4406"

**SB 119** be amended by motion of Senator Holland on page 7, in line 1, before the period, by inserting "or when the project bonds or pay-as-you-go costs have been paid" and **SB 119** be passed as amended.

A motion by Senator Lee to amend **SB 119** failed and the following amendment was rejected on page 1, by striking all in lines 29 and 30;

And by relettering subsections accordingly;

On page 4, in line 25, by striking "a"; by striking all in line 26; in line 27, by striking all before "seeking"; in line 28, by striking ", or both"; by striking all in lines 35 and 36; in line 37, by striking "(6)" and inserting "(5)"; in line 38, by striking "(7)" and inserting "(6)";

On page 5, by striking all in lines 18 and 19;

And by renumbering paragraphs accordingly;

Also on page 5, in line 29, by striking all after the comma where it appears for the first time; in line 37, by striking all after "assessment"; in line 38, by striking all before the period;



On page 6, by striking all in lines 28 through 43;

On page 7, by striking all in lines 1 through 43;

And by renumbering sections accordingly;

On page 8, in line 9, by striking "11" and inserting "10"; by striking all in lines 19 through 21; in line 22, by striking "(d)" and inserting "(c)"; in line 24, by striking "11" and inserting "10"; in line 29, by striking all after the period; by striking all in line 30; in line 31, by striking all before "assessments" and inserting "Special"; in line 39, by striking all after the period; by striking all in line 40; in line 41, by striking all before "Upon";

On page 9, in line 7, by striking "8" and inserting "7"; in line 11, by striking "8" and inserting "7"; in line 16, by striking "8" and inserting "7"

A motion by Senator Abrams to amend **SB 119** failed and the following amendment was rejected on page 8, in line 12, by striking "The" and inserting "(a) Except as provided in subsection (b), the"; in line 14, by striking "(a)" and inserting "(1)"; in line 17, by striking "(b)" and inserting "(2)"; in line 19, by striking "(c)" and inserting "(3)"; in line 22, by striking "(d)" and inserting "(4)"; in line 25, by striking "(e)" and inserting "(5)"; after line 27, by inserting:

"(b) At least a minimum of 50% of the funds expended on a project authorized under this act shall be derived from either ad valorem taxes or special assessments, or a combination thereof, assessed on property located within the district."

**SB 249** be amended by motion of Senator V. Schmidt on page 2, in line 3, preceding "prescribed" by inserting "oral product"; in line 8, following the semicolon by inserting "(iii) is not a combination medication product containing two or more active ingredients; (iv) the substituted dosage form is not intended to be split;"; also in line 8, by striking "(iii)" and inserting "(v)"; in line 15, by striking "does not include" and inserting "includes" and **SB 249** be passed as amended.

The committee report on **SB 89** recommending a **Sub SB 89** be adopted, and the substitute bill be passed.

The committee recommended **SB 134** be amended by adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Pilcher-Cook to amend **SB 134** failed and the following amendment was rejected: on page 17, after line 10, by inserting the following:

"Sec. 14. (a) There is hereby established in the state treasury the judicial suitability fund.

(b) The chief justice shall remit all moneys received under the provisions of this section to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, to be credited to the judicial suitability fund.

(c) The judicial suitability fund is created to accept donations from justices or judges.

(d) Moneys deposited in the judicial suitability fund shall be expended to meet the needs of the judicial branch.

(e) All expenditures from the judicial suitability fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the chief justice or by a person or persons designated by the chief justice.";

And by renumbering the remaining sections accordingly

**SB 138** be amended by adoption of the committee amendments, and be further amended by motion of Senator Wysong on page 16, in line 10, by striking "either"; also in line 10, by striking "or subsection"; in line 11, by striking "(a)(1)(F)", and **SB 138** be passed as further amended.

**SB 158** be amended by adoption of the committee amendments, and be further amended by motion of Senator Owens on page 2 in line 3 by striking "for restricted driving privileges" and by inserting "to be applied by the division of vehicles for additional administrative costs to implement restrictive driving privileges", and **SB 158** be passed as further amended.

**Sub SB 117** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator V. Schmidt, on page 2, after line 22, by inserting:

"(d) (1) Whenever any vendor or other person provides any of the services defined in subsection (b), such vendor or other person shall keep and maintain a record showing the name and address of the person who purchased or requested such services and the amount

paid for such services. The records required by this subsection shall be kept for a period of one year after the date upon which payment was received for such services.

(2) Failure to keep and maintain the records required by this subsection is a class C misdemeanor.” and **Sub SB 117** be passed as amended.

**Sub SB 48** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Petersen on page 7, in line 27, by striking “and”; in line 28, after “(10)” by inserting “appropriate uses of the wireless enhanced 911 grant fund; and

(11)”, and **Sub SB 48** be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Thursday, February 19, 2009.

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

