

# Journal of the Senate

TWENTY-EIGHTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, February 19, 2009—10:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Too often we discover  
Legislators are maligned  
Too often by the people  
They expected to be kind.

No doubt there are occasions  
When some have said or done  
Things which they should not  
Have done to anyone.

When we happen to be the victim  
Of an unprovoked attack,  
What course are we to take?  
How should we react?

The apostle Paul told us  
To forgive them what they've done;  
Just as God's forgiven us,  
Forgive the guilty one.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Assessment and Taxation: **HB 2172**.

Commerce: **SR 1828**.

Education: **HB 2001**.

Judiciary: **HB 2099**.

Public Health and Welfare: **HB 2221**.

Transportation: **HB 2023**.

Utilities: **HB 2115**.

## MESSAGE FROM THE HOUSE

Announcing passage of **HB 2002**; **Sub HB 2050**; **HB 2060**, **HB 2079**, **HB 2207**, **HB 2232**, **HB 2233**, **HB 2236**, **HB 2250**, **HB 2260**.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2002; Sub HB 2050; HB 2060, HB 2079, HB 2207, HB 2232, HB 2233, HB 2236, HB 2250, HB 2260** were thereupon introduced and read by title.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**Sub SB 48**, An act concerning telecommunications; relating to enhanced wireless 911 service; concerning certain fees and disposition thereof; relating to audits of certain systems; establishing the joint committee on enhanced and next generation 911; definitions; amending K.S.A. 2008 Supp. 12-5322, 12-5323, 12-5334, 12-5338 and 12-5361 and repealing the existing sections, was considered on final action.

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

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

The substitute bill passed, as amended.

**SB 53**, An act concerning cereal malt beverages; relating to discretion by cities in granting and suspending or revoking a retailer's license; amending K.S.A. 2008 Supp. 41-2703 and 41-2708 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

**SB 64**, An act concerning the Kansas water appropriation act; amending K.S.A. 82a-705, 82a-707 and 82a-709 and K.S.A. 2008 Supp. 82a-701 and repealing the existing sections, was considered on final action.

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

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

The bill passed, as amended.

**SB 72**, An act concerning credit unions; pertaining to membership of a credit union; amending K.S.A. 2008 Supp. 17-2205 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

**SB 79**, An act concerning elections; pertaining to filing deadlines for candidates; amending K.S.A. 25-205 and 25-4004 and repealing the existing sections, was considered on final action.

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

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

Nays: Abrams, Faust-Goudeau, Francisco, Haley, Kultala, Lee.

The bill passed, as amended.

**SB 83**, An act re-establishing the Kansas autism task force; relating to the powers and duties thereof; repealing K.S.A. 2008 Supp. 46-1208d, was considered on final action.

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

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

The bill passed.

**Sub SB 89**, An act concerning public records; relating to certain records not required to be open; amending K.S.A. 2008 Supp. 45-221 and repealing the existing section, was considered on final action.

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

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

The substitute bill passed.

**SB 103**, An act concerning elections; relating to certain primary elections; amending K.S.A. 2008 Supp. 25-2021, 25-2108a and 71-1415 and repealing the existing sections, was considered on final action.

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

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

Nays: Abrams, Huelskamp, Ostmeyer, Pyle.

The bill passed.

**Sub SB 117**, An act concerning campaign finance; dealing with the crime of corrupt political advertising; amending K.S.A. 2008 Supp. 25-4156 and repealing the existing section; also repealing K.S.A. 2008 Supp. 25-4156a, was considered on final action.

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

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

The substitute bill passed, as amended.

**SB 119**, An act enacting the community improvement district act, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Mor-

ris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Apple, Francisco, Huelskamp, Lee, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken.

The bill passed, as amended.

**SB 134**, An act concerning court fees and costs; amending K.S.A. 2008 Supp. 8-2107, 8-2110, 23-108a, 28-170, 28-172a, 28-177, 38-2215, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 38-1511 and 38-1613, was considered on final action.

On roll call, the vote was: Yeas 21, Nays 19, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brungardt, Donovan, Emler, Francisco, Hensley, Kelly, Kultala, Lynn, Marshall, McGinn, Morris, Owens, Reitz, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Brownlee, Bruce, Colyer, Faust-Goudeau, Haley, Holland, Huelskamp, Kelsey, Lee, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Steineger, Taddiken, Wagle.

The bill passed, as amended.

#### EXPLANATION OF VOTE

It is my sincerest belief that the people of Kansas have entrusted to the legislative branch the exclusive power to appropriate the people's money.

Senate Bill 134 represents an attempt to diminish and erode this body's authority by permitting the judicial branch to raise and appropriate state funds as it sees fit.

Rather than forfeit our responsibilities, this body should make the conscious and necessary decision to properly fund the third branch of government at such a level as to allow for justice to be realized by our constituents.

The appropriate remedy for a decrease made to the court's budget from SGF dollars should be a supplementation by docket fee funds set at a level the legislature alone sees fit.

—TERRY BRUCE

Senators Abrams, Brownlee, Colyer, Huelskamp, Kelsey, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken and Wagle request the record to show they concur with the "Explanation of Vote" offered by Senator Bruce on **SB 134**.

MR. PRESIDENT: I vote yes on **SB 134**. It is wrong for us in the legislature to treat a co-equal branch of government as just another "agency." This is about a separation of powers. When we as the Legislative Branch fail to adequately fund another branch we put on the backs of that branch's workers our failure, thereby rendering them unable to perform the vital function of a co-equal branch and deprive the citizens of our state access on a timely basis to judicial redress.

The "Emergency Surcharge" sought by the Judicial Branch is *required* and for the Legislative Branch to continue to revisit its disagreement with the court over the "School finance formula" decision is just wrong! This is not about teaching the court a civics lesson. A vote against **SB 134** would be a more egregious violation of the constitutional separation of powers than any accusations directed against the courts in the school finance debate. Mr. President, I vote yes.—THOMAS C. OWENS

Senators Francisco, Kelly, McGinn, Schodorf request the record to show they concur with the "Explanation of Vote" offered by Senator Owens on **SB 134**.

**SB 138**, An act concerning tax increment financing; regarding bond revenue sources; amending K.S.A. 2008 Supp. 12-17,166, 12-17,175, 79-3620 and 79-3620b and repealing the existing sections, was considered on final action.

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

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

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

The bill passed, as amended.

**SB 158.** An act concerning driver's licenses; relating to restrictions for certain persons; amending K.S.A. 2008 Supp. 8-2110 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

**SB 159.** An act concerning tobacco; relating to the enforcement of the laws regarding the sale of cigarettes; amending K.S.A. 50-6a04 and repealing the existing section, was considered on final action.

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

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

The bill passed.

**SB 173.** An act relating to the state health care benefits program; concerning certain retired officers and employees; amending K.S.A. 2008 Supp. 75-6501 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Abrams, Brownlee, Bruce, Huelskamp, Lynn, Masterson, Ostmeyer, Pilcher-Cook, Pyle.

The bill passed, as amended.

**SB 183.** An act concerning solid waste; relating to management plans; amending K.S.A. 2008 Supp. 65-3410 and repealing the existing section, was considered on final action.

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

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

Nays: Pilcher-Cook, Pyle.

The bill passed.

**SB 200.** An act concerning board of healing arts; relating to regulations of certain allied health professionals; amending K.S.A. 65-2006, 65-2014, 65-28a01, 65-28a05, 65-5401, 65-5501, 65-7201 and 65-7204 and K.S.A. 2008 Supp. 65-2910, 65-2912, 65-2922, 65-5410, 65-5510, 65-6901, 65-7208, 65-7301 and 65-7313 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala,

Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

**SB 249.** An act concerning pharmacists; relating to substitution of drug product; amending K.S.A. 2008 Supp. 65-1637 and repealing the existing section, was considered on final action.

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

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

The bill passed, as amended.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1829—

A RESOLUTION congratulating and recognizing Katie Weil and Audrey Baker as recipients of the 2009 Horizon Award.

WHEREAS, Katie Weil and Audrey Baker are both recipients of the 2009 Horizon Award for first-year teachers; and

WHEREAS, The Horizon Award, sponsored by the Kansas Department of Education, recognizes exemplary first-year teachers who perform in a way that distinguishes them as outstanding; and

WHEREAS, Katie Weil, Spanish teacher at Gardner Edgerton High School, obtained her Bachelor of Science degree in Secondary Education from Pittsburg State University, where she maintained a 4.0 grade point average and was a member of the Honors College. While attending PSU, Katie earned numerous academic honors including a Kansas World Language Association VIP and a Meritorious Achievement in Spanish. She was also a member of the Kansas World Language Association and the Spanish National Honor Society; and

WHEREAS, Audrey Baker, a fifth grade teacher at Pioneer Ridge Middle School, received her Bachelor of Science degree in Elementary Education from Kansas State University, along with an endorsement in English as a Second Language. While attending Kansas State, Audrey completed additional teacher training at several area elementary schools. Her academic honors include National Society of Collegiate Scholars Honor Society and the KSU Dean's List as well as being a Blue Key and Golden Key invitee; and

WHEREAS, Katie and Audrey were notified of their awards on January 7th, when each received a surprise telephone call from Kansas Commissioner of Education, Dr. Alexa Posny, who recognized them for their tireless work in their classrooms; and

WHEREAS, The teaching excellence and dedication that Katie Weil and Audrey Baker provide to their students makes them invaluable to the Gardner-Edgerton School District and Kansas as a whole: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we recognize and congratulate Katie Weil and Audrey Baker for each receiving a Horizon Award and that we thank them for the excellent level of instruction they provide for their students; and

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

On emergency motion of Senator Brownlee **SR 1829** was adopted unanimously.

Katie Weil and Audrey Baker were guests and were honored with a standing ovation.

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

SENATE RESOLUTION No. 1830—

A RESOLUTION congratulating and commending Dr. Suzanne Blair for earning the 2008 American Star of Teaching award for Kansas.

WHEREAS, On October 1, 2008, Dr. Suzanne Blair was presented the 2008 American Star of Teaching award in a surprise assembly at Gardner Edgerton High School; and

WHEREAS, This assembly took Dr. Blair by complete surprise when she was presented with the award by United States Department of Education Region VII Representative Dr. Mary Davidson Cohen with U.S. Congressman Dennis Moore, Kansas Representative Mike Kiegerl, Kansas Senator Karin Brownlee and Gardner Mayor Carol Lehman in attendance to honor Dr. Blair's achievement; and

WHEREAS, Dr. Blair also received letters of congratulations recognizing her outstanding contributions from Governor Kathleen Sebelius and U.S. Senator Pat Roberts; and

WHEREAS, Dr. Suzanne Blair has been teaching in the Gardner-Edgerton District for 11 years, transferring from Wheatridge Middle School to Gardner Edgerton High School in Fall, 2006; and

WHEREAS, Dr. Blair teaches Advanced Placement Calculus and Statistics courses as well as Informal Geometry and Algebra I and served as a contributing advisor to the National Engineering Design Challenge team at Gardner Edgerton High School, which won the national championship; and

WHEREAS, Dr. Blair holds Bachelors, Masters and Doctoral degrees from the University of Kansas; and

WHEREAS, Nearly 4,000 teachers nationwide were nominated for the American Stars of Teaching award and only one teacher is chosen from each state; and

WHEREAS, Through the American Stars of Teaching program, now in its fifth year, the United States Department of Education recognizes exemplary teachers who are raising student achievement and using innovative classroom strategies to help meet the goals of the No Child Left Behind Act; and

WHEREAS, The 2008 American Stars represent thousands of teachers across the country who are making a difference in children's lives, regardless of the challenges they face; and

WHEREAS, Dr. Suzanne Blair has been an outstanding middle school and high school math teacher for many years in the Gardner-Edgerton School District and her ability to simplify complex subjects not only enables her students to understand difficult material, but to excel: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Dr. Suzanne Blair for earning the 2008 American Star of Teaching award for Kansas and thank her for the inspiration and guidance she has provided for her students; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator Brownlee.

On emergency motion of Senator Brownlee **SR 1830** was adopted unanimously.

Dr. Suzanne Blair was introduced and honored with a standing ovation.

#### 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 Bruce in the Chair.

On motion of Senator Bruce the following report was adopted:

**SB 39, SB 87** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 142** be amended by adoption of the committee amendments, and be further amended by motion of Senator Petersen on page 9, in line 9 by striking "Fines" and inserting "(1) Except as provided in paragraph (2),"; after line 17, by inserting the following:

"(2) The provisions of paragraph (1) shall not apply to convictions for a traffic violation of exceeding maximum speed limit or speeding in locally posted zone which is less than 11 miles per hour over the speed limit.", and **SB 142** be passed as further amended.

A motion by Senator Haley to amend **SB 142** failed and the following amendment was rejected: on page 10, after line 10, by inserting the following:

“Sec. 6. K.S.A. 68-2004 is hereby amended to read as follows: 68-2004. (a) The authority is hereby authorized and empowered to:

- (1) Adopt bylaws for the regulation of its affairs and the conduct of its business;
- (2) adopt an official seal and alter the same ~~at pleasure;~~
- (3) maintain an office at such place or places within the state as it may designate;
- (4) sue and be sued in its own name, plead and be impleaded;
- (5) determine the location, subject to the approval of the secretary of transportation, of each turnpike project financed under the provisions of this act, determine its design and the materials of construction, and construct, maintain, repair and operate the same;
- (6) issue turnpike revenue bonds of the authority for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;
- (7) fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it;
- (8) adopt rules and regulations for the use of any such turnpike project, and adopt rules and regulations for traffic control on such project;
- (9) acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;
- (10) designate the locations, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of the authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;
- (11) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;
- (12) employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;
- (13) receive and accept from any federal agency grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; and
- (14) do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(b) In addition to the tolls charged and collected under paragraph (7) of subsection (a), the authority is hereby allowed to develop and implement a system of tolls based on the average speed driven by a person using the turnpike project.

(b) (c) Violation of any of the rules and regulations adopted under this section shall be unlawful and subject to the penalties contained in K.S.A. 8-2116 and amendments thereto.”;

And by renumbering the remaining sections accordingly;

Also on page 10, in line 11, after “K.S.A.” by inserting “68-2004 and K.S.A.”; also in line 11 by striking “is” an inserting “are”;

On page 1, in the title, in line 12, after the semicolon, by inserting “relating to the Kansas turnpike authority; concerning tolls;”; also in line 12, after “K.S.A.” by inserting “68-2004 and K.S.A.”, in line 13, by striking “section” and inserting “sections”

**SB 160** be amended by adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Brownlee to amend **SB 160** failed and the following amendment was rejected: on page 1, by striking all in lines 15 through 43;

On page 2, by striking all in lines 1 through 9 and inserting the following:  
 “Section 1. K.S.A. 44-1201 is hereby amended to read as follows: 44-1201. ~~On and after January 1, 1978,~~ K.S.A. 44-1201, ~~44-1202 and 44-1204~~ to 44-1213, inclusive, ~~and amendments thereto~~, shall be known and may be cited as “the ~~minimum wage~~ and maximum hours law.”

Sec. 2. K.S.A. 2008 Supp. 44-1202 is hereby amended to read as follows: 44-1202. As used in ~~K.S.A. 44-1201 to 44-1213, inclusive, and amendments thereto~~ *the maximum hours law*, unless the context otherwise requires:

- (a) “Secretary” means the secretary of labor.



(b) "Wage" means compensation due to an employee by reason of the employee's employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances as may be permitted by regulations of the secretary under K.S.A. 44-1207 and amendments thereto.

(c) "Employ" means to suffer or permit to work.

(d) "Employer" means any individual, partnership, association, corporation, business trust or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include any employer who is subject to the provisions of the fair labor standards act of 1938 (29 U.S.C.A. § 201 et seq.) and any other acts amendatory thereof or supplemental thereto.

(e) "Employee" means any individual employed by an employer, but shall not include: (1) Any individual employed in agriculture; (2) any individual employed in domestic service in or about a private home; (3) any individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside commission paid salesman, as such terms are defined and delimited by rules and regulations of the secretary; (4) any individual employed by the United States; (5) any individual who renders service gratuitously for a nonprofit organization as such terms are defined by rules and regulations of the secretary; (6) persons eighteen years of age or less employed for any purpose on an occasional or part-time basis; or (7) any individual employed by a unified school district in an executive, administrative or professional capacity, if the individual is engaged in such capacity 50% or more of the hours during which the individual is so employed.

(f) "Occupation" means employment in any service, trade, business, industry or other gainful employment.

(g) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron or customer for services rendered.

(h) "Occasional or part-time basis" means any employee working less than 40 hours per week and, for the purposes of this definition, students 18 years of age and under working between academic terms shall be considered part-time employees regardless of the number of hours worked.

Sec. 3. K.S.A. 44-1207 is hereby amended to read as follows: 44-1207. (a) ~~On and after January 1, 1978; The secretary shall adopt such rules and regulations as are necessary to carry out the purposes and provisions of K.S.A. 44-1201 to 44-1213, inclusive; the maximum hours law~~ to prevent the circumvention or evasion thereof and to safeguard the ~~minimum wage and~~ overtime rates established by this act. Such rules and regulations may include, but are not limited to, regulations defining and governing: Outside salesmen; bonuses; part-time rates; special pay for special or extra work; allowances as part of the wage rates applicable under this act for board, lodging and gratuities; other facilities or services furnished by employers and used by employees; and other special items usual in a particular employer-employee relationship.

(b) ~~On and after January 1, 1978; In order to prevent curtailment of opportunities for employment; and avoid undue hardship and safeguard the minimum wage rates under K.S.A. 44-1201 to 44-1213, inclusive the maximum hours law,~~ the secretary also may adopt rules and regulations providing for: (1) The employment of handicapped workers or patient laborers at state institutions or hospitals at wages lower than the ~~wage overtime~~ rates applicable under ~~K.S.A. 44-1201 to 44-1213, inclusive; the maximum hours law~~ under permits and for such periods of time as specified therein; and (2) the employment of learners and apprentices at ~~wages overtime rates~~ lower than the ~~wage overtime~~ rates applicable under ~~this act the maximum hours law,~~ under permits and subject to such limitations on number, proportion, length of learning period, occupations and other conditions as the secretary may prescribe.

(c) ~~On and after January 1, 1978;~~ The secretary is authorized to appoint an advisory committee, composed of any equal number of not more than three ~~(3)~~ representatives of each of employers, employees and disinterested persons representing the general public, with whom the secretary may consult concerning the making and revising of the rules and regulations. Members of the advisory committee attending meetings of such committee, or attending a subcommittee meeting thereof authorized by the committee, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

Sec. 4. K.S.A. 44-1208 is hereby amended to read as follows: 44-1208. Any action of the secretary or the secretary's representatives in administering ~~K.S.A. 44-1201 through 44-1213, and amendments thereto;~~ *the maximum hours law* is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 5. K.S.A. 44-1209 is hereby amended to read as follows: 44-1209. ~~On and after January 1, 1978;~~ Every employer subject to any provision of ~~K.S.A. 44-1201 to 44-1213, inclusive;~~ *the maximum hours law* or of any rule and regulation adopted pursuant thereto, shall make and keep, for a period of not less than three ~~(3)~~ years, in or about the premises wherein any employee is employed, a record of the name and occupation of each employee, the rate of pay and the amount paid each pay period to each such employee, the hours worked each day and each work week by each such employee and such other information as the secretary may prescribe by rules and regulations as being necessary or appropriate for the enforcement of the provisions of ~~K.S.A. 44-1201 to 44-1213, inclusive;~~ *the maximum hours law* or of the rules and regulations adopted pursuant thereto. In lieu of the records required under this section, any employer who is covered under the provisions of the fair labor standards act of 1938, as amended (29 U.S.C.A. § 201 et seq.) and as further amended by the fair labor standards amendments of 1974 and any other acts amendatory thereof or supplemental thereto, may keep and maintain the records required under ~~said~~ *the* fair labor standards act of 1938, as amended. Such records shall be open for inspection or transcription by the secretary or the authorized representative of the secretary at any reasonable time.

Sec. 6 K.S.A. 44-1210 is hereby amended to read as follows: 44-1210. (a) ~~On and after January 1, 1978;~~ Any employer who is convicted of violating any provisions of ~~K.S.A. 44-1201 to 44-1213, inclusive;~~ *the maximum hours law* or falsifying any record pertaining thereto shall be fined not less than ~~two hundred fifty dollars (\$250)~~ \$250 nor more than ~~one thousand dollars (\$1,000)~~ \$1,000.

(b) ~~On and after January 1, 1978;~~ Any employer who discharges or in any other manner discriminates against any employee because such employee has made any complaint to ~~his or her~~ *the* employer or the secretary, or to the authorized representative of the secretary, that ~~he or she~~ *the employee* has not been paid wages in accordance with ~~K.S.A. 44-1201 to 44-1213, inclusive;~~ *the maximum hours law*, or rules or regulations issued thereunder, or because such employee has caused to be instituted, or is about to cause to be instituted, any proceeding under or related to ~~K.S.A. 44-1201 to 44-1213, inclusive;~~ *the maximum hours law* or because such employee has testified or is about to testify in any such proceeding, shall be deemed in violation of ~~K.S.A. 44-1201 to 44-1213, inclusive;~~ *the maximum hours law* and, upon conviction therefor, shall be fined not less than ~~two hundred fifty dollars (\$250)~~ \$250 nor more than ~~one thousand dollars (\$1,000)~~ \$1,000.

Sec. 7. K.S.A. 44-1211 is hereby amended to read as follows: 44-1211. (a) ~~On and after January 1, 1978;~~ Any employer who pays an employee less than the wages and overtime compensation to which such employee is entitled, under or by virtue of ~~K.S.A. 44-1201 to 44-1213, inclusive;~~ *the maximum hours law* shall be liable to such employee affected for the full amount of such wages and overtime compensation, less any amount actually paid to such employee by the employer, and for costs and such reasonable attorney fees as may be allowed by the court in an action for the recovery of such wages and overtime compensation. Any agreement between such employee and the employer to work for less than the applicable wage rate shall be no defense to such action. Such action may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of such employee or employees.

(b) ~~On and after January 1, 1978;~~ At the written request of any employee who has been paid less than the amount to which ~~he or she~~ *the employee* is entitled under the provisions of ~~this act~~ *the maximum hours law*, the secretary may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorneys' fees as may be allowed by the court. The secretary in case of suit shall have power to join various claimants against the same employer in one action.

Sec. 8. K.S.A. 44-1212 is hereby amended to read as follows: 44-1212. ~~On and after January 1, 1978;~~ Any standards relating to ~~minimum wages;~~ maximum hours, overtime compensation or other working conditions in effect under any other law of this state on the

effective date of this act which are more favorable to employees than those applicable hereunder shall not be deemed to be amended, rescinded or otherwise affected by ~~K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law~~ but shall continue in full force and effect until they are specifically superseded by standards more favorable to such employees by operation of or in accordance with ~~K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law~~ or rules and regulations adopted hereunder.

Sec. 9. K.S.A. 44-1213 is hereby amended to read as follows: 44-1213. Nothing in ~~K.S.A. 44-1201 to 44-1213, inclusive, the maximum hours law~~ shall be deemed to interfere with, impede or in any way diminish the right of employees to bargain collectively with their employers, through representatives of their own choosing, in order to establish wages, *overtime* or other conditions of work in excess of the applicable minimum requirements of ~~K.S.A. 44-1201 to 44-1213, inclusive the maximum hours law.~~

Sec. 10. K.S.A. 44-1201, 44-1203, 44-1207, 44-1208, 44-1209, 44-1210, 44-1211, 44-1212 and 44-1213 and K.S.A. 2008 Supp. 44-1202 are hereby repealed.”;

On page 1, in the title, by striking all in lines 11 and 12 and inserting the following: “AN ACT concerning the minimum wage and maximum hours law; repealing the minimum wage provisions; amending K.S.A. 44-1201, 44-1207, 44-1208, 44-1209, 44-1210, 44-1211, 44-1212 and 44-1213 and K.S.A. 2008 Supp. 44-1202 and repealing the existing sections; also repealing K.S.A. 44-1203.”

The committee rose and reported progress. (See Committee of the Whole Afternoon Session).

On motion of Senator D. Schmidt, the Senate recessed until 2:00 p.m.

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## AFTERNOON SESSION

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

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 282**, An act concerning the court of appeals; amending K.S.A. 2008 Supp. 20-3002 and repealing the existing section, by Committee on Ways and Means.

**SB 283**, An act concerning criminal procedure; relating to community corrections; amending K.S.A. 2008 Supp. 75-5291 and repealing the existing section, by Committee on Ways and Means.

### CHANGE OF REFERENCE

The President withdrew **SB 149** from the Committee on **Education**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 186**, **SB 193** from the Committee on **Ethics and Elections**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 198** from the Committee on **Local Government**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 153** from the Committee on **Transportation**, and referred the bill to the Committee on **Ways and Means**.

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

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

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

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

**REMOVE FROM CONSENT CALENDAR**

An objection having been made to **SB 49** appearing on the Consent Calendar, the President directed the bill be removed and placed on the calendar under the heading of General Orders.

The President withdrew **SB 49** from the calendar under the heading of General Orders and referred the bill to the Committee on **Ways and Means**.

**REPORT ON ENGROSSED BILLS**

**SB 148, SB 168, SB 219** reported correctly engrossed February 19, 2009.

**REPORT ON ENROLLED BILLS**

**SR 1819, SR 1825, SR 1826, SR 1827** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 19, 2009.

**COMMITTEE OF THE WHOLE**

The Senate returned to the Committee of the Whole for consideration of bills under the heading of General Orders with Senator Bruce in the Chair.

On the motion of Senator Bruce the report for the morning and the following afternoon sessions were adopted.

Recommended **SB 69, SB 120, SB 154, SB 240** be passed.

**SB 37, SB 84, SB 105, SB 163, SB 175, SB 228, SB 237**, be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 9** be amended by adoption of the committee amendments and be further amended by motion of Senator Schodorf on page 5, in line 4, by striking "has the meaning ascribed thereto by"; in line 5, by striking all before the period and inserting "means any funds received by a state educational institution from any source other than the state of Kansas or any agency thereof";

On page 7, in line 31, by striking "city" where it appears the first time, and inserting "county", and **SB 9** be passed as further amended.

**SB 59** be amended by adoption of the committee amendments and be further amended by motion of Senator Umbarger on page 2, in line 17 by striking "\$60 including"; in line 18, by striking "court costs", and **SB 59** be passed as further amended.

**SB 152** be amended by adoption of the committee amendments and be further amended by motion of Senator Apple on page 2, by striking all in lines 2 through 16; in line 22, by striking "Except as provided in paragraph (3), any" and inserting "Any";

On page 3, in line 14, by striking all after "placards"; by striking all in line 15; in line 16, by striking all before the period; in line 24, by striking all after "carrier"; by striking all in line 25; in line 26, by striking all before the period; after line 26 by inserting the following: "(C) (1) Such motor vehicles described in paragraphs (A) and (B) which are carrying a load shall be required to have a cover which shall be securely fastened to prevent the cover or load from spilling or becoming a hazard to other motor vehicle users.

(2) Such motor vehicles described in paragraphs (A) and (B) which are carrying a load above the sidewalls of a truck bed or trailer shall be adequately strapped to securely fasten the load to the vehicle.", and **SB 152** be passed as further amended.

**SB 203** be amended by adoption of the committee amendments and be further amended by motion of Senator V. Schmidt on page 2, in line 13, after the period by inserting "Such rules and regulations shall be promulgated on or before July 1, 2010.", and **SB 203** be passed as further amended.

**SB 238** be amended by adoption of the committee amendments and be further amended by motion of Senator Taddiken on page 1, in line 37, by striking "bred.", and **SB 238** be passed as further amended.

A motion was made by Senator Haley to amend **SB 238** on page 1, after line 14, by inserting the following:

"New Section 1. (a) As used in this section:

(1) "Custodial interrogation" retains the meaning prescribed to it by the United States and Kansas Constitutions.

(2) “Place of detention” means a building under the control of a law enforcement unit, a courthouse holding facility for defendants in the custody of a jail or prison, a city or county jail or work release facility, a state prison, or a state security hospital or a facility operated by the department of social and rehabilitation services for the purposes provided for under K.S.A. 59-29a02 et seq., and amendments thereto.

(3) “Video recording” means to capture the visual and audio components of an event in a manner that allows the event to be observed through that medium.

(b) (1) Effective July 1, 2009, except as provided in subsection (c), if a place of detention is equipped with one or more rooms capable of making a video recording, a video recording shall be made of a custodial interrogation conducted in such place of detention when the interrogation concerns an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 felony crime. The recording shall include the advice of rights. The recording shall not end until the interrogation is concluded. If the defendant elects to make or sign a written statement during the course of a custodial interrogation, the making and signing of the writing shall be recorded.

(2) Effective July 1, 2010, except as provided in subsection (c), a video recording shall be made of a custodial interrogation conducted in any place of detention when the interrogation concerns an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 felony crime. The recording shall include the advice of rights. The recording shall not end until the interrogation is concluded. If the defendant elects to make or sign a written statement during the course of a custodial interrogation, the making and signing of the writing shall be recorded.

(c) A video recording of a statement under subsection (b) is not required if the oral, written or sign language statement was made:

(1) During an interrogation that was not recorded as required by subsection (b) because video recording was not feasible;

(2) spontaneously and not in response to a question;

(3) voluntarily, whether or not the result of an interrogation, and the statement has a bearing on the credibility of the accused as a witness;

(4) after questioning that is routinely asked during the processing of the arrest of a suspect;

(5) in an interrogation outside the state of Kansas;

(6) at a time when the interrogators are unaware that an offense covered by subsection (b) has occurred; or

(7) at a time when the person being interrogated is not a suspect for the offense to which the statement relates while the person is being interrogated for an offense other than an offense specified in subsection (b).

(d) If the court finds by a preponderance of the evidence that the defendant was subjected to an interrogation in violation of this section, the defendant shall be entitled to a jury instruction on the failure to record the interrogation. If the defendant requests such an instruction, the court shall instruct the jury that it is the law of Kansas to make a video recording of a custodial interrogation of a person suspected of committing the offense charged and because of the absence of any recording of the interrogation in the case before them, they should weigh evidence of the defendant’s alleged statement with great caution and care.

(e) Every video recording required under this section shall be preserved until the defendant’s conviction for an offense relating to the statement is final and all direct and habeas corpus appeals are exhausted, or until the prosecution of offenses related to the recorded statement is barred by law, whichever occurs later.

(f) Every video recording of any statement as required by this section shall be confidential and exempt from the Kansas open records act in accordance with K.S.A. 45-221, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

In the title, in line 10, by striking “and punishment” and inserting “, punishment and criminal procedure”; also in line 10, after “to” by inserting “evidence and videotaping of felony interrogations;”

The Chair ruled the amendment not to be germane to the bill.

**Sub SB 58** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Apple, "On page 8, in line 9, before "its" by inserting "January 1, 2010, and"; in line 10, by striking "Kansas register" and inserting "statute book", and **Sub SB 58** be passed as amended.

#### FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **SB 9, SB 37, SB 39, Sub SB 58; SB 59, SB 69, SB 84, SB 87, SB 105, SB 120, SB 142, SB 152, SB 154, SB 160, SB 162, SB 163, SB 175, SB 203, SB 228, SB 237, SB 238, SB 240** were advanced to Final Action and roll call.

**SB 9**, An act concerning state educational institutions; relating to construction improvement projects.

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

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

The bill passed, as amended.

**SB 37**, An act regulating traffic; concerning golf carts; amending K.S.A. 2008 Supp. 8-126, 8-128, 8-1486 and 8-2118 and repealing the existing sections

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

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

Nays: Donovan, Pilcher-Cook.

Present and Passing: Wysong.

The bill passed, as amended.

**SB 39**, An act concerning certain municipalities; relating to the investment of public moneys; amending K.S.A. 2008 Supp. 12-1677b and repealing the existing section.

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

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

The bill passed, as amended.

**Sub SB 58**, An act concerning utilities; relating to the underground utility damage prevention act; definitions; amending K.S.A. 66-1802, 66-1804, 66-1805 and 66-1806 and repealing the existing sections; also repealing K.S.A. 66-1802, as amended by section 5 of chapter 122 of the 2008 Session Laws of Kansas, 66-1804, as amended by section 6 of chapter 122 of the 2008 Session Laws of Kansas, 66-1805, as amended by section 7 of chapter 122 of the 2008 Session Laws of Kansas, 66-1806, as amended by section 8 of chapter 122 of the 2008 Session Laws of Kansas, section 9 of chapter 122 of the 2008 Session Laws of Kansas and section 10 of chapter 122 of the 2008 Session Laws of Kansas.

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

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

Nays: Huelskamp, Marshall, Pilcher-Cook, Pyle, Vratil.

Present and Passing: Francisco.

The substitute bill passed, as amended.

**SB 59**, An act relating to motor vehicles; concerning the use of safety belts; amending K.S.A. 2008 Supp. 8-2503 and 8-2504 and repealing the existing sections.

On roll call, the vote was: Yeas 23, Nays 17, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Kelly, Kultala, Lee, Lynn, McGinn, Morris, Owens, Reitz, Schmidt V, Schodorf, Umbarger, Vratil, Wysong.

Nays: Abrams, Bruce, Faust-Goudeau, Haley, Huelskamp, Kelsey, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Steineger, Taddiken, Teichman, Wagle.

The bill passed, as amended.

**SB 69**, An act concerning crime stoppers; establishing an advisory council; imposing certain fees; providing for certain grants; creating the Kansas crime stopper trust fund.

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

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

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

The bill passed.

**SB 84**, An act concerning schools; relating to personal financial literacy courses; amending K.S.A. 2008 Supp. 72-7535 and repealing the existing section.

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

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

The bill passed, as amended.

**SB 87**, An act concerning public agencies; relating to disclosure of certain records; administrative procedure; judicial review; amending K.S.A. 77-501, 77-503, 77-511, 77-512, 77-513, 77-519, 77-520, 77-521, 77-523, 77-525, 77-528, 77-531, 77-532, 77-534, 77-537, 77-601, 77-612, 77-614, 77-617 and 77-621 and K.S.A. 2008 Supp. 45-221, 77-514, 77-527, 77-529, 77-549, 77-550, 77-551 and 77-603 and repealing the existing sections; also repealing K.S.A. 77-507, 77-507a and 77-605 and K.S.A. 2003 Supp. 77-514, as amended by section 39 of chapter 145 of the 2004 Session Laws of Kansas, and K.S.A. 77-551, as amended by section 43 of chapter 145 of the 2004 Session Laws of Kansas.

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

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

Nays: Schmidt D.

The bill passed, as amended.

**SB 105**, An act enacting the public adjusters licensing act.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Abrams, Bruce, Huelskamp, Marshall, Ostmeyer, Pilcher-Cook, Pyle.

The bill passed, as amended.

**SB 120**, An act concerning the Kansas investments in major projects and comprehensive training; relating to the secretary of commerce; authorizing the funding of certain economic development projects; amending K.S.A. 2008 Supp. 74-50,103 and repealing the existing section.

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

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

The bill passed.

**SB 142**, An act concerning transportation; relating to designation of certain highway segments as safety corridors by the secretary of transportation; establishing the traffic safety corridor fund; amending K.S.A. 2008 Supp. 8-2118 and repealing the existing section.

On roll call, the vote was: Yeas 18, Nays 22, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Kelsey, Kultala, Marshall, Morris, Petersen, Reitz, Schodorf, Teichman, Umbarger, Wysong.

Nays: Abrams, Brownlee, Bruce, Brungardt, Haley, Holland, Huelskamp, Kelly, Lee, Lynn, Masterson, McGinn, Ostmeyer, Owens, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Steineger, Taddiken, Vratil, Wagle.

A constitutional majority having failed to vote in favor of the bill, **SB 142** did not pass.

**SB 152**, An act concerning motor carriers; relating to regulation thereof; amending K.S.A. 2008 Supp. 66-1,129 and repealing the existing section.

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

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

Nays: Pyle.

The bill passed, as amended.

**SB 154**, An act concerning civil procedure; relating to habeas corpus; infectious disease; amending K.S.A. 60-1505 and repealing the existing section.

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

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

The bill passed.

**SB 160**, An act concerning the minimum wage and maximum hours law; amending K.S.A. 44-1203 and repealing the existing section.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Colyer, Huelskamp, Lynn, Marshall, Ostmeyer, Pilcher-Cook, Pyle.

The bill passed, as amended.



## EXPLANATION OF VOTE

MR. PRESIDENT: If you want to transfer income to the working poor, there are fairer and better ways to do it. The state minimum wage affects only a small number of Kansans — mostly teenagers. A better way is the federal Earned Income Tax Credit which gives monthly payments to the neediest American families without concentrating the burden on just a few businesses. These issues are better addressed at the federal level—JEFF COLYER

Senator Lynn requests the record to show she concurs with the “Explanation of Vote” offered by Senator Colyer on **SB 160**.

MR. PRESIDENT: I vote yes on **Senate Bill 160** to bring Kansas’ \$2.65 minimum wage in line with the federal minimum wage. This bill would provide true and immediate relief to the estimated 17,000 Kansans currently earning less than the federal minimum wage.

Kansans value work, but that value is not reflected in a state minimum wage that is the lowest in the nation, out of line with our neighboring states, and lower than rates in the US Territories of Guam, Puerto Rico and the Virgin Islands.

The time is right for the legislature to make this change because paying decent wages has positive economic benefits across the board: for the workers who can better provide food and shelter for themselves and their families, for the merchants who receive the dollars those workers spend, and for the employers who may save money through reduced employee turnover and a more productive workforce.

I am pleased that we are taking this significant step to protect and value our workers that is long overdue.—MARCI FRANCISCO

Senators Faust-Goudeau, Haley, Hensley, Kelly and Kultala request the record to show they concur with the “Explanation of Vote” offered by Senator Francisco on **SB 160**.

**SB 162**, An act concerning school districts; relating to disability history and awareness.

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

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

Present and Passing: Abrams.

The bill passed.

**SB 163**, An act amending the consumer protection act; amending K.S.A. 50-624 and 50-626 and repealing the existing sections.

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

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

The bill passed, as amended.

**SB 175**, An act concerning school districts; relating to the powers and duties thereof.

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

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

The bill passed, as amended.

**SB 203**, An act concerning the secretary of agriculture; relating to powers and duties; amending K.S.A. 36-515 and K.S.A. 2008 Supp. 36-503, 36-510 and 74-598 and repealing the existing sections.

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

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

Nays: Abrams, Marshall.

The bill passed, as amended.

**SB 228**, An act concerning property tax; relating to exemptions; pertaining to motor vehicles leased for a period of at least one year and used for certain exempt purposes; amending K.S.A. 2008 Supp. 79-201 and 79-201a and repealing the existing sections.

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

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

The bill passed, as amended.

**SB 237**, An act concerning scrap metal; relating to regulation thereof; amending K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112 and repealing the existing sections.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Abrams, Huelskamp, Marshall, Ostmeyer, Pyle, Schmidt D, Steineger.

The bill passed, as amended.

**SB 238**, An act concerning crimes and punishments; relating to unlawful conduct of cockfighting; asset forfeiture; amending K.S.A. 21-4319 and K.S.A. 2008 Supp. 60-4104 and repealing the existing sections.

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

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

Nays: Faust-Goudeau, Haley.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. PRESIDENT: History of the Haley family as chronicled by my late uncle Alex Haley in "ROOTS", an America saga tells of my fore father . . . son of a white farm owner and black slave, he was born a slave, considered a "property" of his father and the farm; merely  $\frac{3}{8}$  of a human being. This man, though a slave, became so proficient at the art of breeding and training gamecocks or "roosters" at fighting that throughout the state folks who heard of his extraordinary ability at winning cockfights called him, simply, "Chicken George". Chicken George had a winning record by all accounts that would put most professional sports franchises to shame. Before the NFL, the NBA, the NHL or MLB existed in this country, many Americans entertained themselves with the new archaic and definitely barbaric "sport" of "cockfighting." And Chicken George's father-master gave his son-slave money from the gambling; the "pot" the winnings that he earned in his craft.

What did the slave-son do when he could? Gave this money back to his master-father in order to buy his freedom; his liberty *first* and then the liberty and freedom of his *wife*. Now, no one in this Legislature has a greater affiliation with the enhancement of penalties for

extreme animal cruelty than David Haley. None of you nor anyone in the House can take that from my legacy in Kansas. But I vote “NO” today because the generations of freedom that my family has enjoyed in this country at largely in part to gamecock fighting, ironically.

Since David Haley is a product of a stable foundation generations old, Senator David Haley can not vote for a bill which outlaws that which long ago made me free. Most folks may call him “Chicken George” if he were alive today, I would have to call him “great-great-great-great grandpa.” So symbolically, I VOTE “NO” on **SB 238**—DAVID HALEY

**SB 240.** An act relating to mortgages; concerning the regulation thereof; amending K.S.A. 9-2201, 9-2202, 9-2207, 9-2212, 9-2216a, 9-2220, 16a-1-303, 16a-2-301, 16a-2-302, 16a-2-303, 16a-2-304, 16a-3-308, 16a-6-104, 16a-6-108, 16a-6-117, 16a-6-201 and 16a-6-203 and K.S.A. 2008 Supp. 9-2203, 9-2205, 9-2209, 9-2211 and 9-2216 and repealing the existing sections; also repealing K.S.A. 16a-6-413.

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

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

The bill passed.

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Friday, February 20, 2009.

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

