

Journal of the Senate

TWENTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 18, 2010—10:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

In honor of Armed Forces Day, President Morris introduced as guest chaplain, the Fort Leavenworth Garrison Chaplain Mike Thompson, who delivered the invocation:

Most Holy and Gracious God, we boldly, but humbly, come before your throne of grace and ask for your presence and blessing upon this governing body, as they meet today and conduct state business, on behalf of the citizens of Kansas. Along with your blessings, I ask that you give them wisdom and discernment for the present, and a vision for the future. Guide them as they continue to build a great state, and a great place to live, for generations to come.

Thank you, Lord, for each member here. I thank you for their service, loyalty, commitment, and dedication to the residents of Kansas. As they are here in this session, watch over and bless their families; keep them safe.

Now . . . may the Lord bless you, and keep you.

May the Lord make His face shine on you, and be gracious to you.

May the Lord lift up His countenance on you, and give you peace.

It is in your most holy name we pray, Amen.

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **SB 550**.

Judiciary: **SB 549**.

Ways and Means: **HB 2415**, **HB 2442**.

CHANGE OF REFERENCE

The President withdrew **SB 476**, **SB 516** from the Committee on **Ways and Means**, and rereferred the bills to the Committee on **Assessment and Taxation**.

The President withdrew **SB 359**, **SB 499** from the Committee on **Education**, and rereferred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 506** from the Committee on **Public Health and Welfare**, and rereferred the bill to the Committee on **Ways and Means**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **Senate Substitute for HB 2222**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 2, following line 7, by inserting the following material to read as follows:

“(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2010, the following:

Legislative reserve \$550,000

Provided, That the legislative coordinating council is hereby authorized to transfer moneys from the legislative reserve account of the legislative coordinating council to the legislative coordinating council — operations account, office of revisor of statutes — operations account, legislative research department — operations account, operations (including legislative post audit committee) account of the division of post audit, and operations (including official hospitality) account of the legislature: *Provided further*, That, the legislative coordinating council shall certify to the director of accounts and reports the amount of each such transfer of moneys from the legislative reserve account: *And provided further*, That, at the same time as each such certification, the legislative coordinating council shall transmit a copy of each such certification to the director of the budget.”;

And by redesignating subsections (a), (b) and (c) as (b), (c) and (d), respectively;
On page 3, by striking all in lines 19 through 43;
On page 4, by striking all in line 1;
On page 5, in line 25, by striking “February 1, 2010” and inserting “the effective date of this act”;
On page 8, in line 36, following “contributions” by inserting “other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto,”; in line 41, following “research” by inserting “and upon certification to the director of accounts and reports”;
On page 9, in line 14, following “reduced” by inserting “by 5%”; following line 19, by inserting the following material to read as follows:

“(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2010, by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by the state finance council on each special revenue fund in the state treasury is hereby decreased for fiscal year 2010 by the amount equal to 5% of the amount that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, for state officers, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2010 for such special revenue fund, as determined by the director of the budget, after consultation with the director of legislative research, and certified to the director of accounts and reports.”;

And by redesignating subsection (c) as subsection (d);
Also on page 9, in line 37, by striking “or em-”; in line 38, by striking “plovee”; in line 39, by striking “office or”; in line 40, by striking “state officer” and inserting “officer of the state”; in line 41, preceding “section” by inserting “section 15 of article 1 or”; in line 43, preceding “section” by inserting “section 15 of article 1 or”;

On page 10, in line 2, by striking “wages, including”; in line 3, by striking the comma;
And your committee on conference recommends the adoption of this report.

JAY SCOTT EMLER
CAROLYN MCGINN
LAURA KELLY
Conferees on part of Senate

KEVIN W. YODER
RAY MERRICK
BILL FEUERBORN
Conferees on part of House

Senator Emler moved the Senate adopt the Conference Committee Report on **S Sub for HB 2222**.

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

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

Nays: Colyer, Faust-Goudeau, Haley, Marshall, Owens, Reitz.

Present and Passing: Francisco.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **HB 2222**. We are facing huge budget crisis of unprecedented proportions. We should lead by example. I am voluntarily cutting my own pay an actual 10% unlike the gimmicks in this bill which cuts actual legislative pay by less than 1.6%. This is a structural deficit created by giant increases in spending over the years. The only way we can solve this is to grow the economy. Some call this a recession bill but it does not cut spending. It does not balance the budget and leaves a \$39 million deficit right now. Furthermore it borrows from the Highway Trust Fund and other funds for a total of \$92 million. This means future budgets and highways in particular will face a huge budget deficit. Unfortunately, the Governor's spending plans guarantee larger deficits for years in the future. — JEFF COLYER

MR. PRESIDENT: As a citizen legislator, I have always believed in leading by example. Thus I fully support reducing legislative and executive salaries as contained in this bill. Additionally, I call upon my fellow legislators to join me in reducing their office and travel expenditures. For if we expect the rest of state government to tighten their belts and eliminate unnecessary spending, we must be willing to do the same. — TIM HUELSKAMP

MR. PRESIDENT: I vote no on **HB 2222**. We are facing huge budget crisis of unprecedented proportions. We should lead by example. This is a structural deficit created by giant increases in spending over the years. The only way we can solve this is to grow the economy. Some call this a recession bill but it does not cut spending. It does not balance the budget and leaves a \$39 million deficit right now. Furthermore it borrows from the Highway Trust Fund and other funds for a total of \$92 million. This means future budgets and highways in particular will face a huge budget deficit. Unfortunately, the Governor's spending plans guarantee larger deficits for years in the future. — BOB MARSHAL

FINAL ACTION ON CONSENT CALENDAR

SB 369 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

SB 369, An act repealing K.S.A. 2009 Supp. 45-221i; relating to open records.

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, Huntington, 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.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 345, An act concerning criminal procedure; relating to the probation services fee and the community correctional services fee; amending K.S.A. 21-4610a 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, Huntington, 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.

The bill passed.

SB 355, An act concerning teachers; relating to teachers' contracts; amending K.S.A. 2009 Supp. 72-5437 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Colyer, Emler, Huelskamp, Huntington, Lynn, Masterson, McGinn, Morris, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Teichman, Vratil, Wagle.

Nays: Brownlee, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Marshall, Ostmeyer, Owens, Petersen, Reitz, Schodorf, Steineger, Taddiken, Umbarger.

A constitutional majority having failed to vote in favor of the bill, **SB 355** did not pass.

EXPLANATION OF VOTE

MR. PRESIDENT: **SB 355** removes the last right retired working teachers have left — the right of timely notification that they have a job the next year.

Legislation several years ago stripped these teachers of collective bargaining agreements and due process rights.

It was said here that these teachers traded rights to return to work in any district including the one they retired from. Teachers long had the right to return to another district; they never had the right to return to the district from which they retire as a full-time teacher.

They traded nothing. When we passed a KPERS bill requiring the employer to pay the KPERS rate for retirees who return to work, school districts got a loophole. Retired teachers lost collective bargaining so districts could reduce their salary to offset the KPERS surcharge.

But they still return to work when we can't find a math teacher, science teacher, or language arts teacher. We know how important it is to have them come back to help.

We don't need to remove this last limited right for these retired working teachers. We should show them we still value and respect them. I vote no on **SB 355**. — ANTHONY HENSLEY

SB 370, An act concerning the Kansas consumer protection act; relating to certain victims; enhanced civil penalties; amending K.S.A. 50-676, 50-677, 50-678, 50-679 and 50-679a 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, Huntington, 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.

The bill passed, as amended.

SB 381, An act concerning crimes, punishment and criminal procedure; relating to justified threat or use of force; amending K.S.A. 21-3211, 21-3212, 21-3214, 21-3215, 21-3216, 21-3217, 21-3218 and 21-3219 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, Huntington, 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.

The bill passed, as amended.

SB 386, An act concerning criminal procedure; relating to discovery and inspection; amending K.S.A. 22-3212 and repealing the existing section; also repealing K.S.A. 22-3433, 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, Huntington, 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.

The bill passed, as amended.

SB 389, An act concerning dental benefits under health insurance, 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, Huntington, 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.

The bill passed, as amended.

SB 390, An act relating to health insurance; concerning genetic testing by insurance and health entities; providing reimbursement for orally administered anticancer medication; amending K.S.A. 40-2259 and K.S.A. 2009 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 3, Present and Passing 2, Absent or Not Voting 0.

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

Nays: Colyer, Haley, Steineger.

Present and Passing: Francisco, Teichman.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I reluctantly vote YES on **SB 390** as amended by the Committee of the Whole. While I support the underlying bill and want to find solutions to the high cost of oral cancer medication, I support the committee process to be a cornerstone of sound lawmaking. — JIM BARNETT.

Senator Colyer requests the record to show he concurs with the "Explanation of Vote" offered by Senator Barnett on **SB 390**.

SB 409, An act establishing the passenger rail service program; providing for powers and duties of the secretary of transportation; establishing the passenger rail service revolving fund, was considered on final action.

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

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

Nays: Huelskamp, Pilcher-Cook, Pyle.

The bill passed.

SB 423, An act concerning certain public officers and employees; relating to use of unexpended campaign funds; amending K.S.A. 25-4142 and K.S.A. 2009 Supp. 25-4143 and 25-4157a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 27, Nays 12, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Haley, Huntington, Kelsey, Lynn, Marshall, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Colyer, Francisco, Hensley, Holland, Huelskamp, Kelly, Kultala, Lee, Masterson, Pilcher-Cook, Pyle, Schodorf.

Present and Passing: Schmidt D.

The bill passed.

SB 427, An act concerning taxation; relating to willful failure to collect tax or to commit other violations; delinquent property taxes, sale of tax receivables; amending K.S.A. 79-32,107 and K.S.A. 2009 Supp. 79-2971, 79-32,100c and 79-3643 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Apple, Bruce, Lynn, Masterson, Petersen, Pilcher-Cook, Pyle, Schmidt D.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I participated in hearings on **SB 427** in Senate Tax. Although I support the underlying concept of allowing municipalities greater local control and to find alternatives to filling budget holes in an uncertain economy. However, I believe that this bill provides many opportunities for unintended consequences and uncertainties that could have an overall negative effect on local budgets and is questionable public policy. — JULIA LYNN

SB 461, An act concerning district magistrate judges; relating to compensation thereof; amending K.S.A. 2009 Supp. 75-3120k 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, Huntington, 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.

The bill passed, as amended.

SB 471, An act concerning crimes and punishment; relating to harassment by telephone; harassment by telecommunications; amending K.S.A. 21-4113 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, Huntington, 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.

The bill passed, as amended.

SB 482, An act concerning development and redevelopment of areas in the state; defining terms; financing projects; assessments; amending K.S.A. 2009 Supp. 12-6a27, 12-6a28, 12-6a29, 12-6a30, 12-6a31, 12-6a36, 12-1770a, 12-1774 and 12-17,142 and repealing the existing sections, was considered on final action.

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, Huntington, 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: Pilcher-Cook.

The bill passed, as amended.

SB 512, An act concerning school districts; relating to medicaid replacement state aid; amending K.S.A. 2009 Supp. 72-998 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, Huntington, 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.

The bill passed.

S Sub for HB 2476, An act concerning courts; relating to court fees and costs; relating to the judicial branch surcharge fund; docket fees for expungement of records; amending K.S.A. 2009 Supp. 8-2107, 8-2110, 21-4619, 22-2410, 23-108a, 28-170, 28-172a, 28-177, 28-178, 38-2215, 38-2312, 38-2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and repealing the existing sections, was considered on final action.

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

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

Nays: Colyer, Huelskamp, Kelsey, Pilcher-Cook, Pyle.

The substitute bill passed.

REPORT ON ENGROSSED BILLS

SB 370, SB 381, SB 386, SB 389, SB 390, SB 427, SB 461, SB 471, SB 482 reported correctly engrossed February 18, 2010.

REPORT ON ENROLLED BILLS

SR 1821, SR 1822, SR 1823, SR 1824 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 18, 2010.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 532** be amended on page 1, following line 13, by inserting:

“Section 1. K.S.A. 2009 Supp. 41-308a is hereby amended to read as follows: 41-308a.

(a) A farm winery license shall allow:

(1) The manufacture of domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;

(2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, clubs, drinking establishments, holders of temporary permits as authorized by K.S.A. 41-2645, and amendments thereto, and caterers;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(6) if the licensee is also licensed as a caterer, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the unlicensed premises as authorized by the club and drinking establishment act;

(7) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped; ~~and~~

(8) the sale and shipping of wine within this state pursuant to a permit issued pursuant to K.S.A. 2009 Supp. ~~41-348~~ 41-350, and amendments thereto; *and*

(9) *if the licensee is also licensed as a microbrewery pursuant to K.S.A. 41-308b, and amendments thereto, those activities permitted under K.S.A. 41-308b, and amendments thereto, for a microbrewery licensee.*

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a farm winery licensee, the director may issue not to exceed three winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:

(1) The sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(2) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; and

(3) the manufacture of domestic table wine and domestic fortified wine and the storage thereof; provided, that the aggregate quantity of wine produced by the farm winery licensee, including all winery outlets, shall not exceed 100,000 gallons per year.

(c) Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.

(d) A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

(e) The director may issue to the Kansas state fair or any bona fide group of grape growers or wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.

(f) A farm winery license or winery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(g) No farm winery or winery outlet shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premise supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(h) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.

(i) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 0.. K.S.A. 2009 Supp. 41-308b is hereby amended to read as follows: 41-308b. (a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than 15,000 barrels of domestic beer during the license year and the storage thereof;

(2) the sale to beer distributors of beer, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of beer manufactured by the licensee;

(4) the serving *free of charge* on the *licensed* premises of samples of beer manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; ~~and~~

(6) if the licensee is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act; *and*

(7) *if the licensee is also licensed as a farm winery pursuant to K.S.A. 41-308a, and amendments thereto, those activities permitted under K.S.A. 41-308a, and amendments thereto, for a farm winery licensee.*

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer manufactured by the licensee, for the purpose of packaging or storage, or both; and

(2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of the microbrewery, of beer manufactured by the licensee; or

(3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler.

(c) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(d) The director may issue to the Kansas state fair or any bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the

importation of beer pursuant to this subsection and the conduct of tasting programs for which such beer is imported.

(e) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(f) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(g) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.”;

And by renumbering remaining sections;

On page 2, in line 30, by striking “a licensee” and inserting “an applicant for a retailer's license”; also in line 30, after “license” by inserting “, microbrewery license, or both,”; also in line 30, by striking “they”; in line 31, by striking “do” and inserting “the spouse does”;

On page 3, in line 16, by striking all before “licensed”;

On page 4, in line 20, by striking “manufacturer or”; in line 21, by striking all after “act”; in line 22, by striking all before the semicolon; in line 25, before the semicolon by inserting “, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act”;

On page 5, in line 20, after “Supp.” by inserting “41-308a, 41-308b and”; also in line 20, by striking “is” and inserting “are”;

In the title, in line 10, after “Supp.” by inserting “41-308a, 41-308b and”; in line 11, by striking “section” and inserting “sections”; 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 Emler in the chair.

The morning session recommended:

SB 372, SB 373, SB 411, SB 429 be passed.

The committee report on **SB 67** recommending a **Sub SB 67** be adopted, and the substitute bill be passed.

The committee report on **SB 462** recommending a **Sub SB 462** be adopted, and the substitute bill be passed.

SB 406, SB 415, SB 459 be amended by adoption of the committee amendments, and the bills be passed as amended.

Having adopted the committee report on **SB 346** on Wednesday, February 17, 2010, Senator Reitz moved to further amend the bill on page 1, after line 14, by inserting the following:

“Section 1. K.S.A. 19-4444 is hereby amended to read as follows: 19-4444. (a) Except as provided by subsection (b), the agency shall approve all expenditures to be made by and claims to be paid on behalf of such agency and the law enforcement department and shall certify the same to the board of county commissioners of the county to be allowed from the funds provided for the operation of such agency and department.

(b) (1) If a person is stopped by or is in the custody of a law enforcement officer, as defined in K.S.A. 22-2202, and amendments thereto, who is an employee of the state and such person is injured by the officer while acting within the scope of such officer's authority,

costs incurred for medical care and treatment of the person shall be paid by the state if such care and treatment is required due to the injury and a determination has been made that the person has no other resources. When such medical expenses have been paid by the state, the state may seek reimbursement of such expenses from the prisoner. If the state determines that the prisoner is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract, then the state may require the prisoner or the provider rendering health care services to the prisoner to submit a claim for such health care services rendered in accordance with the prisoner's policy or contract.

(2) *Except as provided in K.S.A. 75-5220, and amendments thereto*, all other costs incurred by the agency or department for medical care and treatment of prisoners held within the county shall be paid from the county general fund when a determination has been made that the prisoner has no other resources. When medical expenses have been paid out of the county general fund of any county in this state adopting the provisions of K.S.A. 19-4424 et seq., and amendments thereto, for a prisoner held within such county, the county may seek reimbursement of such expenses from the prisoner. If the county determines that a prisoner of the county jail is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract, then the county may require the prisoner of such county jail or the provider rendering health care services to the prisoner to submit a claim for such health care services rendered in accordance with the prisoner's policy or contract.”;

And by renumbering the remaining sections accordingly;

On page 3, after line 21, by inserting the following:

“(g) All costs incurred for medical care and treatment of the offender while in the custody of the secretary of corrections shall be the responsibility of the secretary of corrections.”;

Also on page 3, in line 22, after “K.S.A.” by inserting “19-4444 and”;

In the title, in line 10, by striking “department” and inserting “secretary”; also in line 10, by striking “the” where it appears the second time, and inserting “costs of offenders in custody;”; in line 11, after “K.S.A.” by inserting “19-4444 and” and **SB 346** be passed as further amended.

SB 448 be amended by adoption of the committee amendments.

Senator Pilcher-Cook moved to amend the bill on page 2, following line 7, by inserting:

“Sec. 2. K.S.A. 65-2401 is hereby amended to read as follows: 65-2401. As used in this act: (1) “Vital statistics” includes the registration, preparation, transcription, collection, compilation, and preservation of data pertaining to birth, adoption, legitimation, death, stillbirth, marriage, divorce, annulment of marriage, induced termination of pregnancy, and data incidental thereto.

(2) “Live birth” means ~~the complete expulsion or extraction from its mother of a product of human conception~~ *a living individual organism of the species homo sapiens*, irrespective of the duration of pregnancy, which, after ~~such~~ expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(3) “Stillbirth” means ~~any complete expulsion or extraction from its mother of a product of human conception~~ *the weight of which is in excess of 350 grams a living individual organism of the species homo sapiens, who dies in utero*, irrespective of the duration of pregnancy, resulting in other than a live birth, as defined in this act, and which is not an induced termination of pregnancy.

(4) “Induced termination of pregnancy” means the purposeful interruption of pregnancy with the intention other than to produce a ~~live-born infant~~ *live birth* or to remove a ~~dead fetus~~ *stillbirth* and which does not result in a live birth.

(5) “Dead body” means a lifeless human body or such parts of a human body or the bones thereof from the state of which it reasonably may be concluded that death recently occurred.

(6) "Person in charge of interment" means any person who places or causes to be placed a stillborn child or dead body or the ashes, after cremation, in a grave, vault, urn or other receptacle, or otherwise disposes thereof.

(7) "Secretary" means the secretary of health and environment.

Sec. 3. K.S.A. 65-2412 is hereby amended to read as follows: 65-2412. (a) A death certificate or stillbirth certificate for each death or stillbirth *where the fetus weighs more than 250 grams* which occurs in this state shall be filed with the state registrar within three days after such death and prior to removal of the body from the state and shall be registered by the state registrar if such death certificate or stillbirth certificate has been completed and filed in accordance with this section. *If the fetus weight is less than or equal to 250 grams, the mother shall have the option of choosing whether or not a stillbirth certificate shall be filed.* If the place of death is unknown, a death certificate shall be filed indicating the location where the body was found as the place of death. A certificate shall be filed within three days after such occurrence; if death occurs in a moving conveyance, the death certificate shall record the location where the dead body was first removed from such conveyance as the place of death.

(b) The funeral director or person acting as such who first assumes custody of a dead body or fetus shall file the death certificate. Such person shall obtain the personal data from the next of kin or the best qualified person or source available and shall obtain the medical certification of cause of death from the physician last in attendance prior to burial. The death certificate filed with the state registrar shall be the official death record, except that a funeral director licensed pursuant to K.S.A. 65-1714, and amendments thereto, may verify as true and accurate information pertaining to a death on a form provided by the state registrar, and any such form, verified within 21 days of date of death, shall be prima facie evidence of the facts therein stated for purposes of establishing death. The secretary of health and environment shall fix and collect a fee for each form provided a funeral director pursuant to this subsection. The fee shall be collected at the time the form is provided the funeral director and shall be in the same amount as the fee for a certified copy of a death certificate.

(c) When death occurred without medical attendance or when inquiry is required by the laws relating to postmortem examinations, the coroner shall investigate the cause of death and shall complete and sign the medical certification within 24 hours after receipt of the death certificate or as provided in K.S.A. 65-2414, and amendments thereto.

(d) In every instance a certificate shall be filed prior to interment or disposal of the body.";
And by renumbering remaining sections accordingly;

On page 4, in line 12, after "65-177" by inserting ", 65-2401 and 65-2412";

In the title, in line 10, after "relating" by inserting "to certificates and"; in line 11, after "65-177" by inserting ", 65-2401 and 65-2412"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 20, Nays 16, Present and Passing 4, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Taddiken, Wagle.

Nays: Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Owens, Reitz, Schmidt V, Steineger, Teichman, Vratil.

Present and Passing: Emler, Morris, Schodorf, Umbarger.

The motion carried and the amendment was adopted.

SB 448 be passed as further amended.

The Committee rose and reported progress. (See Committee of the Whole, afternoon session).

On motion of Senator D. Schmidt, the Senate recessed until 2:30 p.m.

AFTERNOON-SESSION

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

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2408, HB 2506, HB 2508; Substitute HB 2509; HB 2510, HB 2547, HB 2555, HB 2566, HB 2572, HB 2585, HB 2604, HB 2608, HB 2609, HB 2638, HB 2650, HB 2652.**

Also, passage of **SB 357.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2408, HB 2506, HB 2508; Substitute HB 2509; HB 2510, HB 2547, HB 2555, HB 2566, HB 2572, HB 2585, HB 2604, HB 2608, HB 2609, HB 2638, HB 2650, HB 2652 were thereupon introduced and read by title.

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Emler in the chair.

On motion of Senator Haley to amend **SB 458** failed and the following afternoon report were adopted:

Recommended **SB 432** be passed.

SB 419, SB 458, SB 484, SB 485, SB 500, SB 519, SB 537 be amended by adoption of the committee amendments, and the bills be passed as amended.

A motion by Senator Haley to amend **SB 458** failed and the following amendment was rejected: on page 1, after line 15, 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, 2010, 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, 2011, 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.

(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 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 sections accordingly;

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

The committee report on **SB 475** recommending a **Sub for SB 475** be adopted, and the substitute bill be passed.

The committee report on **SB 514** recommending a **Sub for SB 514** be adopted, and the substitute bill be passed.

SB 382 be amended by adoption of the committee amendments, be further amended by motion of Senator Teichman on page 1, in line 33, before “the” where it appears the first time, by inserting “80% of”; also in line 33, after “price” by inserting “safe harbor”; in line 36, by striking “as in effect on the effective date of this act” and **SB 382** be passed as further amended.

SB 434 be amended by adoption of the committee amendments, be further amended by motion of Senator Bruce on page 1, in line 30, by striking “or” where it appears the first time, and inserting a comma; in line 31, by striking “under the direct supervision and control of the offender” and inserting “and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is an inmate who has been released and is currently on parole, conditional release or postrelease supervision”;

On page 3, in line 4, by striking “direct”; in line 7, by striking “the offender” and inserting “court services and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of court services”; in line 15, by striking “direct”; in line 19, by striking “the offender” and inserting “community corrections and the offender has knowledge that the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is currently under the supervision of community corrections”

SB 434 was further amended by motion of Senator D. Schmidt on page 4, after line 13, by inserting the following:

“Sec. 2. K.S.A. 2009 Supp. 21-3826 is hereby amended to read as follows: 21-3826. (a) Traffic in contraband in a correctional institution or care and treatment facility is introducing or attempting to introduce into or upon the grounds of any correctional institution or care and treatment facility or taking, sending, attempting to take or attempting to send from any correctional institution or care and treatment facility or any unauthorized possession while in any correctional institution or care and treatment facility or distributing within any correctional institution or care and treatment facility, any item without the consent of the administrator of the correctional institution or care and treatment facility.

(b) *Traffic in contraband in a correctional institution or care and treatment facility is a:*

- (1) *Severity level 6, nonperson felony, except as provided in subsection (b)(2) or (b)(3);*
- (2) *severity level 5, nonperson felony if such items are:*
 - (A) *Firearms, ammunition, explosives or a controlled substance which is defined in K.S.A. 2009 Supp. 21-36a01, and amendments thereto, except as provided in subsection (b)(3);*
 - (B) *defined as contraband by rules and regulations adopted by the secretary of corrections, in a correctional institution by an employee of a correctional institution, except as provided in subsection (b)(3); or*
 - (C) *defined as contraband by rules and regulations adopted by the secretary of social and rehabilitation services, in a care and treatment facility by an employee of a care and treatment facility, except as provided in subsection (b)(3); and*
- (3) *severity level 4, nonperson felony if such items are firearms, ammunition or explosives, in a correctional institution by an employee of a correctional institution or in a care and treatment facility by an employee of a care and treatment facility.*

(c) *The provisions of subsection (b)(2)(A) shall not apply to the possession of a firearm or ammunition by a person licensed under the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, in a parking lot open to the public if the firearm or ammunition is carried on the person while in a vehicle or while securing the firearm or ammunition in the vehicle, or stored out of plain view in a locked but unoccupied vehicle.*

~~(d)~~ (d) For purposes of this section:

(1) "Correctional institution" means any state correctional institution or facility, conservation camp, juvenile correctional facility, community correction center or facility for detention or confinement, juvenile detention facility or jail.

(2) "Care and treatment facility" means the state security hospital provided for under K.S.A. 76-1305 et seq., and amendments thereto, and 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.

~~(c) (1) Traffic in contraband in a correctional institution or care and treatment facility of firearms, ammunition, explosives or a controlled substance which is defined in K.S.A. 2009 Supp. 21-36a01, and amendments thereto, is a severity level 5, nonperson felony. This paragraph shall not apply to the possession of a firearm or ammunition by a person licensed under the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, in a parking lot open to the public if the firearm or ammunition is carried on the person while in a vehicle or while securing the firearm or ammunition in the vehicle, or stored out of plain view in a locked but unoccupied vehicle.~~

~~(2) Traffic in any contraband, as defined by rules and regulations adopted by the secretary, in a correctional institution by an employee of a correctional institution is a severity level 5, nonperson felony.~~

~~(3) Traffic in any contraband, as defined by rules and regulations adopted by the secretary of social and rehabilitation services, in a care and treatment facility by an employee of a care and treatment facility is a severity level 5, nonperson felony.~~

~~(d) Except as provided in subsection (c), traffic in contraband in a correctional institution or care and treatment facility is a severity level 6, nonperson felony.~~

Sec. 3. K.S.A. 2009 Supp. 21-4704 is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

SENTENCING RANGE - NONDRUG OFFENSES

Category ↓	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND
Presumptive Probation
Presumptive Imprisonment

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

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

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

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

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

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

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

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3415, and amendments thereto, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered a departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall be as provided by the specific mandatory

sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-4707, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-3710, and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (ii) at the time of the conviction under paragraph (A) (i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government; or (B) (i) has been convicted of rape, K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the conviction under paragraph (B) (i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in paragraph (2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or subsection (d) of K.S.A. 21-3812, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

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

available and the offender can be admitted to such program within a reasonable period of time; or

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

Any decision made by the court regarding the imposition of an optional nonprison sentence pursuant to this section shall not be considered a departure and shall not be subject to appeal.

(n) The sentence for a third or subsequent violation of subsection (b) of K.S.A. 21-3705, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) The sentence for a felony violation of K.S.A. 21-3701 or 21-3715, and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, and amendments thereto; or the sentence for a felony violation of K.S.A. 21-3701, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, and amendments thereto; or the sentence for a felony violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of subsection (f)(1) of K.S.A. 21-4729, and amendments thereto, shall apply to a defendant sentenced under this subsection.

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

(p) The sentence for a felony violation of K.S.A. 21-3701, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716 and amendments thereto, or the sentence for a violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

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

(q) The sentence for a violation of subsection (a)(2) of K.S.A. 21-3413, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(r) *The sentence for a violation of K.S.A. 21-3520, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.*

Sec. 3. K.S.A. 2009 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in ~~this~~ *the Kansas offender registration act*, unless the context otherwise requires:

- (a) "Offender" means: (1) A sex offender as defined in subsection (b);
- (2) a violent offender as defined in subsection (d);
- (3) a sexually violent predator as defined in subsection (f);
- (4) any person who, on and after ~~the effective date of this act~~ *May 29, 1997*, is convicted of any of the following crimes when the victim is less than 18 years of age:
 - (A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;
 - (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or
 - (C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;
 - (5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:
 - (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;
 - (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;
 - (C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;
 - (D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto; or
 - (E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; ~~or~~
 - ~~(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;~~
 - (6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;
 - (7) any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;
 - (8) any person who has been convicted of an offense in effect at any time prior to ~~the effective date of this act~~ *May 29, 1997*, that is comparable to any crime defined in subsection (4), (5), (7) or (11), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4), (5), (7) or (11);
 - (9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4), (5), (7) or (10);
 - (10) any person who has been convicted of aggravated trafficking as defined in K.S.A. 21-3447, and amendments thereto; or
 - (11) any person who has been convicted of: (A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined by K.S.A. 65-4159, prior to its repeal or K.S.A. 2009 Supp. 21-36a03, and amendments thereto, unless the court makes a finding on the record that the manufacturing or attempting to manufacture such controlled substance was for such person's personal use;
 - (B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by K.S.A. 65-7006, prior to its repeal or K.S.A. 2009 Supp. 21-36a09 or 21-36a10, and amendments thereto, unless the court makes a finding on the record that the possession of such product was intended to be used to manufacture a controlled substance for such person's personal use; or

(C) K.S.A. 65-4161, prior to its repeal or K.S.A. 2009 Supp. 21-36a05, and amendments thereto.

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

(b) “Sex offender” includes any person who, ~~after the effective date of this act on or after April 14, 1994,~~ is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) “Sexually violent crime” means:

- (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
- (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;
- (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;
- (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;
- (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
- (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;
- (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;
- (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;
- (9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;
- (10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
- (11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; ~~or~~
- (12) electronic solicitation as defined by K.S.A. 21-3523, and amendments thereto, committed on ~~and after the effective date of this act or after April 17, 2008;~~
- (13) ~~unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto, committed on or after July 1, 2010;~~

~~(13)~~ (14) any conviction for an offense in effect at any time prior to ~~the effective date of this act April 29, 1993,~~ that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

~~(14)~~ (15) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

~~(15)~~ (16) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.

(d) “Violent offender” includes any person who, ~~after the effective date of this act on or after May 29, 1997,~~ is convicted of any of the following crimes:

- (1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;
- (2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto;

or

(6) any conviction for an offense in effect at any time prior to ~~the effective date of this act May 29, 1997,~~ that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

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

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

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

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

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

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

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

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

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

And by renumbering the remaining sections accordingly;

Also on page 4, in line 14, by striking “is” and inserting “and K.S.A. 2009 Supp. 21-3826, 21-4704 and 22-4902 are”;

In the title, in line 10, by striking “and” and inserting a comma; also in line 10, after “punishment” by inserting “and criminal procedure”; in line 11, after “relations” by inserting “; sentencing; offender registration; trafficking in contraband in a correctional institution”; also in line 11, after “21-3520” by inserting “and K.S.A. 2009 Supp. 21-3826, 21-4704 and 22-4902”; also in line 11, by striking “section” and inserting “sections” and **SB 434** passed as further amended.

The committee report on **SB 468** was adopted.

SB 468 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a 2/3 constitutional majority, and **Sub SB 67; SB 346, SB 372, SB 373, SB 382, SB 406, SB 411, SB 415, SB 419, SB 429, SB 432, SB 434, SB 448, SB 458, SB 459; Sub SB 462, Sub SB 475, SB 484, SB 485, SB 500; Sub SB 514, SB 519, SB 537** were advanced to Final Action and roll call.

Sub SB 67, An act concerning crimes and punishment; relating to mistreatment of a dependent adult; amending K.S.A. 21-3437 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, Huntington, 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.

The substitute bill passed.

SB 346, An act concerning the secretary of corrections; relating to costs of offenders in custody; transfer of certain offenders; amending K.S.A. 19-4444 and 21-4632 and K.S.A. 2009 Supp. 75-5220 and repealing the existing sections.

On roll call, the vote was: Yeas 29, Nays 11, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Barnett, Brownlee, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Lee, Marshall, Master-

son, McGinn, Morris, Owens, Reitz, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Nays: Apple, Bruce, Colyer, Huelskamp, Lynn, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Wagle.

The bill passed, as amended.

SB 372, An act concerning guardianship and conservatorship; relating to orders and petitions; amending K.S.A. 2009 Supp. 59-3058, 59-3059, 59-3060 and 59-3061 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, Huntington, 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.

The bill passed.

SB 373, An act concerning municipal courts; clarifying which municipal ordinance violations require payment of an assessment; amending K.S.A. 2009 Supp. 12-4117 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, Huntington, 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.

The bill passed.

SB 382, An act concerning the housing loan deposit program; relating to requirements for borrowers; amending K.S.A. 2009 Supp. 75-4277 and 75-4279 and repealing the existing sections.

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

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

Nays: Pilcher-Cook, Pyle, Taddiken.

The bill passed, as amended.

SB 406, An act concerning taxation; relating to delinquent taxes; establishing service fee for taxpayers on installment payment plans.

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, Huntington, 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.

The bill passed, as amended.

SB 411, An act concerning crimes and punishment; relating to criminal possession of a firearm; amending K.S.A. 2009 Supp. 21-4204 and repealing the existing section.

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

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

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

The bill passed.

SB 415, An act concerning certain municipalities; pertaining to investment in certain bonds; pertaining to investment of certain bond income; amending K.S.A. 10-131 and K.S.A. 2009 Supp. 10-1009 and 12-1675 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, Huntington, 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.

The bill passed, as amended.

SB 419, An act concerning election of city officers; pertaining to filing requirements; amending K.S.A. 2009 Supp. 25-2110 and 25-2110a 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, Huntington, 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.

The bill passed, as amended.

SB 429, An act concerning sales taxation; relating to streamlined sales and use tax agreement conformity; amending K.S.A. 2009 Supp. 79-3609, 79-3651, 79-3666 and 79-3672 and repealing the existing sections.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

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

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

The bill passed.

SB 432, An act concerning property taxes; delinquent taxes; fees for outsourcing collections; amending K.S.A. 2009 Supp. 79-2401a and repealing the existing section.

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Huntington, Kelly, Kultala, Lee, Marshall, McGinn, Morris, Owens, Reitz, Schmidt V, Steineger, Teichman, Vratil.

Nays: Abrams, Apple, Brownlee, Bruce, Colyer, Haley, Holland, Huelskamp, Kelsey, Lynn, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schodorf, Taddiken, Umbarger, Wagle.

A constitutional majority having failed to vote in favor of the bill, **SB 432** did not pass.

EXPLANATION OF VOTE

MR. PRESIDENT: In today's economy many families are struggling financially. **SB 432** places an additional burden on families that are just trying to make ends meet and keep their homes. Therefore I vote "NO" on **SB 432**. — PAT APPLE:

Senators Lynn, Petersen, Schodorf and Umbarger request the record to show they concur with the "Explanation of Vote" offered by Senator Apple.

SB 434, An act concerning crimes, punishment and criminal procedure; relating to unlawful sexual relations; sentencing; offender registration; trafficking in contraband in a correctional institution; amending K.S.A. 21-3520 and K.S.A. 2009 Supp. 21-3826, 21-4704 and 22-4902 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, Huntington, 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.

The bill passed, as amended.

SB 448, An act concerning use of vital statistics; relating to certificates and to maternal and child health surveillance and monitoring; amending K.S.A. 65-177, 65-2401 and 65-2412 and K.S.A. 2009 Supp. 65-2422d and repealing the existing sections.

On roll call, the vote was: Yeas 20, Nays 18, Present and Passing 2, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Huelskamp, Kelsey, Lynn, Marshall, Masterson, McGinn, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Taddiken, Wagle.

Nays: Brungardt, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Lee, Owens, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil.

Present and Passing: Francisco, Morris.

A constitutional majority having failed to vote in favor of the bill, **SB 448** did not pass.

SB 458, An act concerning criminal procedure; relating to admissibility and certification of forensic examinations; allowing interactive video testimony in limited instances; amending K.S.A. 2009 Supp. 22-3437 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, Huntington, 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.

The bill passed, as amended.

SB 459, An act concerning juvenile offenders; amending K.S.A. 2009 Supp. 38-2364, 38-2365 and 38-2373 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, Huntington, 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.

The bill passed, as amended.

Sub SB 462, An act regulating traffic; concerning liability for damage to highway or structure; amending K.S.A. 8-1913 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, Huntington, 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: Pilcher-Cook.

The substitute bill passed.

Sub SB 475, An act concerning funeral directors; amending K.S.A. 65-1714 and K.S.A. 2009 Supp. 65-1713 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, Huntington, 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.

The substitute bill passed.

SB 484, An act relating to drivers' licenses; concerning restricted licenses and instructional permits; amending K.S.A. 2009 Supp. 8-234a, 8-296, 8-2,100 and 8-2,101 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, Huntington, 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.

The bill passed, as amended.

SB 485, An act concerning postsecondary education; relating to private and out-of-state postsecondary educational institutions; amending K.S.A. 2009 Supp. 74-32,162, 74-32,163, 74-32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,178 and 74-32,181 and repealing the existing sections.

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

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

Nays: Abrams, Brownlee, Donovan, Huelskamp, Kelsey, Masterson, Petersen, Pilcher-Cook, Pyle.

The bill passed, as amended.

SB 500, An act concerning the healing arts act; regarding an exception to prohibited acts; amending K.S.A. 65-2867 and repealing the existing section, by Committee on Public Health and Welfare.

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, Huntington, 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.

The bill passed, as amended.

Sub SB 514, An act concerning alcoholic beverages; relating to eligibility for license for club and drinking establishments; amending K.S.A. 2009 Supp. 41-2623 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, Huntington, 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.

The substitute bill passed.

SB 519, An act concerning courts; relating to electronic communication and payment; amending K.S.A. 19-4716, 20-365, 22-2502, 22-2504 and 59-2203 and K.S.A. 2009 Supp. 8-2118, 28-172a and 38-2305 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, Huntington, 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.

The bill passed, as amended.

SB 537, An act concerning liens and claims against real or personal property; amending K.S.A. 58-4301 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, Huntington, 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.

The bill passed, as amended.

CHANGE OF REFERENCE

The President withdrew **Sub SB 374** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Judiciary**.

The President withdrew **SB 399, SB 407, SB 435, SB 436, SB 494, SB 504, SB 520, SB 521, SB 522, SB 523, SB 524, SB 534** from the Committee on **Judiciary**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 536** from the Committee on **Transportation**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 447, SB 501, SB 505, SB 509, SB 525** from the Committee on **Public Health and Welfare**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 468, SB 495** from the Calendar under the heading of General Orders, and referred the bills to the Committee on **Ways and Means**.

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Friday, February 19, 2010.

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

