

# Journal of the Senate

TWELFTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, January 24, 2001—2:30 p.m.

The Senate was called to order by President Dave Kerr.  
The roll was called with forty senators present.

President Kerr introduced as guest Chaplain, Rev. Kirk Larson, Pastor of Grace Community Church, Dodge City, Kansas, who delivered the invocation:

Dear God and Heavenly Father, we acknowledge that you are the Creator and Sustainer of all life and in You we find our meaning and hope. Father, may thine eyes now be attentive and thine ears open to hear the prayer of Thy servant.

Search us, O God and know our hearts, try us and know our anxious thoughts; And see if there be any wicked way in us. Father, remove our self-serving agendas and give us God honoring plans, deliver us from our prideful knowledge and grant us humility in knowing Your Word. Father, forgive us for honoring You with lip service, when our hearts are far from You. Father, help us to remember not to lean on our own understanding, but in all our ways to acknowledge You and You will direct our paths.

Father, You say that if anyone lacks wisdom, let him ask of God, today on behalf of these Senators, I ask that You grant them today and throughout this year Godly wisdom that is pure, peaceable, gentle, reasonable, full of mercy and good fruits, unwavering and without hypocrisy.

Father, we thank you for the Blessed Redeemer, Your Son, Jesus Christ in whom we have redemption, the forgiveness of sins. In the Holy name of Christ Jesus I pray. Amen.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 107**, An act concerning elections; relating to petitions; amending K.S.A. 25-3601 and 25-3602 and repealing the existing sections, by Committee on Elections and Local Government.

**SB 108**, An act concerning campaign finance; establishing requirements for electronic filing of reporting of campaign contributions, by Committee on Elections and Local Government.

**SB 109**, An act concerning surveyors; authorizing creation of surveyor districts, by Committee on Elections and Local Government.

**SB 110**, An act concerning certified public accountants; licensure; fees; amending K.S.A. 2000 Supp. 1-301 and repealing the existing section, by Committee on Ways and Means.

**SB 111**, An act concerning the state corporation commission; relating to investigations; amending K.S.A. 2000 Supp. 66-101d, 66-101e, 66-1,191, 66-1,192, 66-1,204, 66-1,205, 66-1,219, 66-1,220, 66-1,234 and 66-1,235 and repealing the existing sections, by Committee on Utilities.

**SB 112**, An act concerning the state corporation commission; relating to energy cost adjustment clauses, by Committee on Utilities.

**SB 113**, An act establishing the Kansas utility energy assistance program; providing for the funding thereof; amending K.S.A. 79-4227 and repealing the existing section, by Senator Adkins.

**SB 114**, An act concerning use of campaign contributions; relating to the reimbursement of the governor's spouse for certain expenses.; amending K.S.A. 25-4157a and repealing the existing section, by Committee on Elections and Local Government.

**SB 115**, An act relating to school buses; modification of used school buses; amending K.S.A. 72-8313 and repealing the existing section, by Committee on Transportation.

**SB 116**, An act concerning firearms, ammunition and firearms dealers; relating to the limitation on certain civil actions relating thereto, by Committee on Federal and State Affairs.

**SB 117**, An act concerning the regulation and application of state and local laws, rules, regulations and ordinances to sport shooting ranges; providing civil immunity to persons who operate or use such ranges, by Committee on Federal and State Affairs.

**SB 118**, An act relating to fetal alcohol syndrome; establishing a diagnostic and prevention network pilot program, by Senators Barnett, Adkins, Allen, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle.

**SB 119**, An act concerning mental health; relating to screenings and placements; amending K.S.A. 22-3302, 22-3303, 22-3429, 22-3430, 38-1513, 38-1514, 38-1614, 38-1637, 38-1638, 38-1639 and 38-1662 and K.S.A. 2000 Supp. 22-3305 and 22-3431 and repealing the existing sections, by Committee on Public Health and Welfare.

**SB 120**, An act concerning the mentally ill; relating to admittance to adult care homes; amending K.S.A. 39-968 and repealing the existing section, by Committee on Public Health and Welfare.

**SB 121**, An act relating to professional employer organizations; establishing certain minimum standards applicable to all professional employer organizations operating in the state, by Committee on Commerce.

**SB 122**, An act relating to health care; providing for regulation of alternative and complementary health care providers; and repealing K.S.A. 65-2872a, by Health Care Reform Legislative Oversight Committee.

**SB 123**, An act concerning insurance; relating to the licensure of insurance producers; amending K.S.A. 40-3702 and repealing the existing section; also repealing K.S.A. 40-239, 40-240, 40-240f, 40-241a, 40-241b, 40-241c, 40-241d, 40-241e, 40-241f, 40-241g, 40-241i, 40-242, 40-245, 40-246, 40-3701, 40-3703, 40-3704, 40-3705, 40-3706, 40-3707, 40-3708, 40-3709, 40-3710, 40-3711, 40-3712, 40-3713 and 40-3714, by Committee on Financial Institutions and Insurance.

**SB 124**, An act establishing the Kansas council on school district finance and quality performance; imposing duties on the council, by Committee on Education.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture: **SCR 1605**.

Assessment and Taxation: **SB 91, SB 92, SB 93, SB 105, SB 106**.

Elections and Local Government: **SB 94, SB 102**.

Financial Institutions & Insurance: **SB 101**.

Judiciary: **SB 95, SB 97, SB 98, SB 99, SB 103, SB 104**.

Ways and Means: **SB 96, SB 100**.

#### COMMUNICATIONS FROM STATE OFFICERS

STATE TREASURER

January 2001

The Hon. Tim Shallenburger, State Treasurer, submitted the State Treasurer's Annual Report to the Legislature for FY 2000.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2022, HB 2049, HB 2050, HB 2051, HB 2052, HB 2053.**

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2022, HB 2049, HB 2050, HB 2051, HB 2052, HB 2053** were thereupon introduced and read by title.

#### REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Secretary, Kansas Department of Revenue: K.S.A. 75-5101

Stephen S. Richards, serves at the pleasure of the Governor

Also **SB 41, SB 42, SB 43, SB 45** be passed.

**SB 44** be amended on page 3, after line 4, by inserting a new section to read as follows: "Sec. 4. K.S.A. 79-32,105 is hereby amended to read as follows: 79-32,105. (a) The director shall pay to the treasurer of the state daily the entire amount collected during the preceding day, under the provisions of this act and from the income tax imposed upon individuals, corporations, estates or trusts pursuant to the "Kansas income tax act" less amounts withheld as provided in subsection (b) and any amounts credited to the IMPACT program repayment fund or the IMPACT program services fund under K.S.A. 74-50,107 and amendments thereto, which amounts shall be credited to the state general fund.

(b) A revolving fund, designated as "income tax refund fund" not to exceed \$4,000,000 shall be set apart and maintained by the director from income tax collections, withholding tax collections, and estimated tax collections and held by the state treasurer for prompt payment of all income tax refunds ~~and~~, for the payment of interest as provided in subsection (e) *and for payment of homestead property tax refunds in accordance with the homestead property tax refund act.* The fund shall be in such amount, within the limit set by this section, as the director determines is necessary to meet current refunding requirements under this act.

(c) If the director discovers from the examination of the return, or upon claim duly filed by the taxpayer or upon final judgment of the court that the income tax, withholding tax, declaration of estimated tax or any penalty or interest paid by or credited to any taxpayer is in excess of the amount legally due, the director shall certify to the director of accounts and reports the name of the taxpayer, the amount of refund and such other information as the director may require. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the taxpayer out of the fund provided in subsection (b), except that no refund shall be made for a sum less than \$5, but such amount may be claimed by the taxpayer as a credit against the taxpayer's tax liability in the taxpayer's next succeeding taxable year.

(d) When a resident taxpayer dies, and the director determines that a refund is due the claimant not in excess of \$100, the director shall certify to the director of accounts and reports the name and address of the claimant entitled to the refund and the amount of the refund. A refund may be made upon a claim duly made on behalf of the estate of the deceased or in the absence of any such claim upon a claim by a surviving spouse and if none upon the claim by any heir at law. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the claimant out of the fund provided in subsection (b).

(e) Interest shall be allowed and paid at the rate of 12% per annum upon any overpayment of the income tax imposed upon individuals, corporations, estates or trusts pursuant to the Kansas income tax act for any period prior to January 1, 1995, 6% per annum for the period commencing on January 1, 1995, and ending on December 31, 1997, and at the rate

prescribed and determined pursuant to K.S.A. 79-2968, and amendments thereto, for any period thereafter.

For the purposes of this subsection:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day, determined without regard to any extension of time granted the taxpayer;

(2) any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid on the last day prescribed for filing the return for the taxable year to which such amount constitutes a credit or payment, determined without regard to any extension of time granted the taxpayer;

(3) if any overpayment of tax results from a carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss or net capital loss arises. For purposes of this paragraph, the return for the loss year shall not be deemed to be filed before claim for such overpayment is filed;

(4) in the case of a credit, interest shall be allowed and paid from the date of the overpayment to the due date of the amount against which the credit is taken, except that if any overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year, whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year, and no interest shall be allowed or paid in such overpayment for the taxable year in which the overpayment arises;

(5) in the case of a tax return which is filed after the last date prescribed for filing such return, determined with regard to extensions, no interest shall be allowed or paid for any period before the date on which the return is filed;

(6) in the case of a refund, interest shall be allowed and paid from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, as determined by the director, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer, but acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon; and

(7) if any overpayment is refunded within two months after the last date prescribed, or permitted by extension of time, for filing the return of such tax, or within two months after the return was filed, whichever is later, no interest shall be allowed or paid. For the purposes of this section, an overpayment shall be deemed to have been refunded at the time the refund check in the amount of the overpayment, plus any interest due thereon, is deposited in the United States mail."

Also, on page 3, in line 5, after "K.S.A." by inserting "79-32,105,";

By renumbering existing sections accordingly;

In the title, in line 10, after "K.S.A." by inserting "79-32,105,"; and the bill be passed as amended.

#### **COMMITTEE OF THE WHOLE**

On motion of Senator Oleen, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Jordan in the chair.

On motion of Senator Jordan the following report was adopted:

Recommended **SB 15** be passed.

Also, **SB 18** be amended by adoption of the committee amendments, and the bill be passed as amended.

#### **FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS**

On motion of Senator Oleen an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **SB 15**, **SB 18** were advanced to Final Action and roll call.

**SB 15**, An act concerning state moneys; relating to the remittance of moneys to the state treasurer; amending K.S.A. 2-220, 2-427, 2-1425, 2-2128, 2-2212, 2-2440e, 2-2478, 2-2814, 2-3317, 8-267, 8-280, 8-1333, 8-2418, 8-2425, 9-1917, 9-1918, 12-2623, 17-1271, 17-2206a, 17-2236, 17-2265, 17-5610, 17-5701, 17-7508, 17-7515, 20-156, 20-1a01, 20-1a02, 20-1a03, 20-213, 20-2801, 21-4610a, 22-4526, 25-4006, 25-4119a, 25-4119f, 25-4145, 25-4152, 25-4180, 25-4181, 25-4305, 28-172b, 31-133a, 31-134, 31-159, 32-854, 32-877, 32-984, 32-991, 32-993, 32-1047, 32-1173, 34-101, 36-512, 36-515b, 38-2009, 39-757, 39-784, 39-936, 39-1210, 40-112, 40-223, 40-1706, 40-2120, 40-2251, 40-2305, 40-2306, 40-2809, 40-2906a, 40-3016, 40-3118, 40-3213, 40-3421, 41-317, 41-328, 41-347, 41-501, 41-2606, 41-2622, 41-2645, 41-2702, 44-324, 44-411, 44-532, 44-566a, 44-570, 44-575, 44-587, 44-712, 44-714, 44-806a, 44-812, 44-926, 44-1019, 44-1506, 44-1512, 45-107, 45-116, 46-237a, 46-265, 46-280, 46-288, 46-802, 46-1118, 46-1121, 46-1207a, 46-1503, 47-417a, 47-437, 47-504, 47-624, 47-672, 47-820, 47-842, 47-1008, 47-1011, 47-1011a, 47-1218, 47-1503, 47-1721, 47-1805, 47-1809, 47-1831, 47-2101, 48-272, 48-273, 48-942, 48-1613, 48-1623, 48-3108, 48-3302, 49-420, 49-428, 50-1005, 53-104, 55-176, 55-609, 55-711, 55-901, 55-1204, 55-1207, 58-3074, 58-4107, 59-901, 60-306, 65-102a, 65-157, 65-171e, 65-171v, 65-1,109a, 65-245, 65-6a45, 65-6a56, 65-6b10, 65-770, 65-1718, 65-1817a, 65-1926, 65-2011, 65-2015, 65-2855, 65-2863a, 65-28,121, 65-2911, 65-3023, 65-4216, 65-4415, 65-4437, 65-4514, 65-5002, 65-5309, 65-5413, 65-5513, 65-5708, 66-1,155, 68-173, 68-413, 68-423a, 68-1139, 72-1387, 72-2148, 72-4432, 72-4442, 72-4463, 72-6418, 72-6505, 72-7080, 72-7528, 72-9705, 74-504e, 74-617, 74-715, 74-1108, 74-1109, 74-1110, 74-1405, 74-1503, 74-1609, 74-2117, 74-2445, 74-3267a, 74-3903, 74-4551, 74-5055, 74-5619, 74-5805, 74-6708, 74-7010, 74-7039, 74-7317, 74-7506, 74-8821, 74-8824, 74-8826, 74-8827, 74-8835, 75-420, 75-433, 75-436, 75-438, 75-441, 75-706, 75-750, 75-1119b, 75-1513, 75-1514, 75-2250, 75-2251, 75-2253, 75-2254, 75-2562, 75-2701, 75-2705, 75-2728, 75-3320, 75-3345, 75-3728b, 75-3747, 75-3768, 75-37,118, 75-4201, 75-4214, 75-4215, 75-4603, 75-4614, 75-46a05, 75-4704a, 75-5039, 75-5049, 75-5132, 75-5289, 75-52,136, 75-5397a, 75-5533, 75-5662, 75-5733, 75-6210, 75-6513, 75-6605, 75-7033, 76-116e, 76-168, 76-326b, 76-376, 76-385, 76-466, 76-509, 76-518, 76-6a06, 76-762, 76-1201c, 76-12a08, 76-12a10, 76-12a15, 76-1302a, 76-1409a, 76-17a11, 76-17c01a, 76-1906, 76-1939, 76-1953, 76-2056, 76-2101a, 76-2201a, 76-2614, 77-138, 77-165, 77-430, 77-431, 79-6a04, 79-6a10, 79-1112, 79-1124, 79-3095, 79-32,105, 79-3303, 79-3311, 79-3387, 79-3454, 79-3495, 79-4108, 79-41a03, 79-4227, 79-5117, 79-5211, 82a-212, 82a-731, 82a-952, 82a-954, 82a-1206, 82a-1216, 82a-1315a, 82a-1315c, 82a-1408, 82a-1413, 82a-1503, 83-214, 83-302, 83-402, 83-501 and 83-502 and K.S.A. 2000 Supp. 1-204, 2-205, 2-225, 2-1011, 2-1012, 2-1205, 2-1421a, 2-2464a, 2-2507, 2-2911, 2-3315, 8-116a, 8-132, 8-143g, 8-145, 8-146, 8-1,101, 8-1,112, 8-241, 8-255, 8-1008, 8-1911, 8-2110, 9-1111b, 9-1135, 9-1703, 9-1803, 9-1804, 9-2107, 9-2108, 12-1694, 12-1698, 12-2539, 12-4116, 12-4117, 13-13a38, 16a-2-302, 17-7509, 19-4707, 20-166, 20-1a04, 20-1a11, 20-350, 20-362, 20-367, 21-3851, 22-4504, 22-4529, 23-108a, 48-3303, 49-622, 55-155, 55-164, 55-180, 55-427, 55-443, 58-2011, 58-3066, 58-4118, 65-163, 65-166a, 65-1,205, 65-505, 65-519, 65-526, 65-708a, 65-750, 65-1436, 65-1526, 65-1657, 65-1658, 65-1951, 65-1954, 65-2418, 65-3415a, 65-3415b, 65-3424b, 65-3424d, 65-3424k, 65-3431, 65-34,117, 65-34,145, 65-34,146, 65-34,150, 65-34,151, 65-3503, 65-4610, 65-5913, 65-6128, 65-6129, 65-6129b, 65-6512, 65-6809, 65-6910, 66-1,139, 66-1,139a, 66-1a01, 66-1503, 68-2096, 72-979, 72-4530, 72-4939, 72-6441, 73-1231, 74-534, 74-1106, 74-2022, 74-2124, 74-2704, 74-3256, 74-3272a, 74-3298, 74-32,107, 74-32,119, 74-32,138, 74-5005, 74-5074, 74-5086a, 74-5091, 74-50,108, 74-50,156, 74-5204, 74-7009, 74-7325, 74-7334, 74-8203, 74-8711, 74-8813, 74-8815, 74-8818, 74-8822, 74-8823, 74-8836, 74-8927, 74-8929, 74-9808, 75-715, 75-7b23, 75-1308, 75-2256, 75-2265, 75-2534, 75-3352, 75-3365, 75-3683, 75-3765, 75-5048, 75-5282, 75-5542, 75-5670, 75-7021, 79-15,112, 79-15,116, 79-3391, 79-3408c, 79-3425, 79-3491a, 79-34,104, 79-34,126, 79-3620, 79-3710, 79-4710, 79-4713, 79-5303 and 82a-1315b 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh,

Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

**SB 18**, An act concerning the juvenile justice authority; relating to juvenile justice program grants; amending K.S.A. 2000 Supp. 75-7024 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelkamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Thursday, January 25, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

