

# Journal of the Senate

FIFTY-SIXTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, March 28, 2001—9:30 a.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. Rick Thornton, First United Methodist Church, Winfield, Kansas, who delivered the invocation:

Bless, dear God, the work of this Senate; grant to its members clarity of thought, evenness of temper, and willingness to persevere in your service.

Help these senators to love the people of Kansas, walk with them, feel their pain and share their joys, help them to remember that every citizen dreams and also help these senators to accompany the citizens to their common goals.

Help us to always be transforming our political systems to more nearly reflect your will, dear God, and help all of us to serve your people and to bring real glory to your name, God.

Amen

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2160, HB 2292.**

Commerce: **HB 2573.**

Judiciary: **HB 2549.**

Ways and Means: **HB 2548.**

## COMMUNICATIONS FROM STATE OFFICERS

COMMONWEALTH OF VIRGINIA  
HOUSE OF DELEGATES  
Richmond, Virginia  
March 22, 2001

Bruce F. Jamerson, Clerk of the House of Delegates and Keeper of the Rolls of the Commonwealth, Richmond, Virginia, transmitted House Joint Resolution 651, expressing the commitment of the Commonwealth to the principles represented by the Electoral College, agreed to by the 2001 General Assembly.

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

## 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 Vratil in the chair.

On motion of Senator Vratil the following report was adopted:

Recommended **SCR 1610** be amended by adoption of the committee amendments, and the concurrent resolution be adopted as amended.

**SB 342** be amended by adoption of the committee amendments, be further amended by motion of Senator Huelskamp, as amended by Senate Committee, on page 12, by striking all in lines 7 through 14 and **SB 342** be passed as further amended.

**S Sub for HB 2040** be passed over and retain a place on the calendar.

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

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## AFTERNOON SESSION

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

### 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 342**; **SCR 1610** were advanced to Final Action and roll call.

**SB 342**, An act making and concerning appropriations for the fiscal years ending June 30, 2001, and June 30, 2002, for the state bank commissioner, board of nursing, state board of pharmacy, real estate appraisal board, governor's department, lieutenant governor, state treasurer, insurance department, state board of indigents' defense services, department of administration, department of revenue, Kansas racing and gaming commission, Kansas technology enterprise corporation, department of revenue—homestead property tax refunds, department of human resources, Kansas commission on veterans affairs, department of health and environment, department on aging, department of social and rehabilitation services, department of education, state library, Kansas arts commission, Fort Hays state university, Kansas state university extension systems and agriculture research programs, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, state board of regents, department of corrections, juvenile justice authority, state fire marshal, Kansas sentencing commission, Kansas department of agriculture, state conservation commission, Kansas water office, department of wildlife and parks, adjutant general, behavioral sciences regulatory board, citizens' utility ratepayers board, department of commerce and housing, judicial council and Kansas lottery; authorizing certain transfers and capital improvement projects, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

On roll call, the vote was: Yeas 29, Nays 10, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Clark, Corbin, Donovan, Downey, Em-ler, Feleciano, Gilstrap, Gooch, Goodwin, Hensley, Jackson, Jenkins, Jordan, Kerr, Morris, Oleen, Praeger, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Nays: Haley, Harrington, Huelskamp, Lee, Lyon, O'Connor, Pugh, Steineger, Tyson, Wagle.

Absent or Not Voting: Brungardt.

The bill passed, as amended.

**SCR 1610**, a concurrent resolution directing that the state rates for residential services be reviewed, contracts revisited and recommendations forwarded to the 2002 Legislature from a joint interim study.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Clark, Corbin, Donovan, Downey, Em-ler, Feleciano, Gilstrap, Gooch, 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, Wagle.

Absent or Not Voting: Brungardt.

The resolution was adopted, as amended.

**MESSAGE FROM THE GOVERNOR**

**SB 47, SB 54, SB 63, SB 73, SB 101, SB 212, SB 254** approved on March 27, 2001.  
**SB 155** approved on March 28, 2001.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2020, HB 2219, HB 2458, HB 2507, HB 2545, HB 2563, HB 2566**.

Also, passage of **SB 309**, as amended; **SB 322**, as amended by **House Substitute for SB 322, Substitute SB 330**, as amended by **House Substitute for Substitute SB 330**.

The House concurs in Senate amendments to **HB 2188**.

The House concurs in Senate amendments to **HB 2252**.

The House concurs in Senate amendments to **HB 2263**.

The House concurs in Senate amendments to **HB 2481**.

The House concurs in Senate amendments to **HB 2482**.

The House nonconcur in Senate amendments to **HB 2189**, requests a conference and has appointed Representatives Benlon, Krehbiel and Storm as conferees on the part of the house.

The House nonconcur in Senate amendments to **HB 2301**, requests a conference and has appointed Representatives Lane, P. Long and Ruff as conferees on the part of the house.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2303**, requests a conference and has appointed Representatives Lane, P. Long and Ruff as conferees on the part of the house.

The House nonconcur in Senate amendments to **HB 2316**, requests a conference and has appointed Representatives Freeborn, Schwartz and Flora as conferees on the part of the house.

The House nonconcur in Senate amendments to **HB 2369**, requests a conference and has appointed Representatives Hayzlett, Vickrey and Grant as conferees on the part of the house.

The House accedes to the request of the Senate for a conference on **SB 67** and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 97** and has appointed Representatives Horst, Faber and Gatewood as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 119** and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 128** and has appointed Representatives T. Powell, Powers and Alldritt as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 192** and has appointed Representatives T. Powell, Powers and Alldritt as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 218** and has appointed Representatives T. Powell, Powers and Alldritt as conferees on the part of the House.

The House announces the appointment of Representative Wells to replace Representative Flora as a conferee on **SB 183**.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2020, HB 2219, HB 2458, HB 2507, HB 2545, HB 2563, HB 2566** were there-upon introduced and read by title.

**CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR**

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 14** and requested a conference committee be appointed.

The President appointed Senators Vratil, Oleen and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Morris the Senate nonconcurred in the House amendments to **SB 57** and requested a conference committee be appointed.

The President appointed Senators Morris, Adkins and Feleciano as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 263** and requested a conference committee be appointed.

The President appointed Senators Vratil, Adkins and Goodwin as a conference committee on the part of the Senate.

#### **ORIGINAL MOTION**

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **HB 2189**.

The President appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

On motion of Senator Brownlee, the Senate acceded to the request of the House for a conference on **HB 2301**.

The President appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

On motion of Senator Brownlee, the Senate acceded to the request of the House for a conference on **S Sub for HB 2303**.

The President appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2369**.

The President appointed Senators Donovan, Salmans and Gooch as conferees on the part of the Senate.

#### **REPORTS OF STANDING COMMITTEES**

Committee on **Assessment and Taxation** recommends **HB 2221**, as amended by Senate Committee, be further amended On page 1, in line 38, by striking all after the period; by striking all in lines 39 and 40;

On page 3, by striking all in line 43;

On page 4, by striking all in lines 1 and 2; in line 3, by striking all before "The"; in line 40, by striking "Riley,";

On page 5, in line 1, by striking "and Riley";

On page 6, in line 6, by striking all after "than"; by striking all in line 7; in line 8, by striking all before "10";

On page 10, in line 43, by striking "state";

On page 11, in line 4, after the period, by inserting "Such copy shall be submitted to the director of taxation within 30 days after adoption of any such ordinance or resolution."; after line 16, by inserting:

"Revenue that is received from the imposition of a local retailers' sales tax which exceeds the amount of revenue required to pay the costs of a special project for which such revenue was pledged shall be credited to the city or county general fund, as the case requires.";

Also on page 11, after line 33, by inserting a new section to read as follows:

"Sec. 3. K.S.A. 2000 Supp. 12-192 is hereby amended to read as follows: 12-192. (a) Except as otherwise provided by subsection (b), (d) or (h), all revenue received by the director of taxation from a countywide retailers' sales tax shall be apportioned among the county and each city located in such county in the following manner: (1) One-half of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year, and (2) 1/2 of all revenue received by the director of taxation from such countywide retailers' sales tax shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second

to the cities in the proportion that the population of each city bears to the total population of the county, except that no persons residing within the Fort Riley military reservation shall be included in the determination of the population of any city located within Riley county. All revenue apportioned to a county shall be paid to its county treasurer and shall be credited to the general fund of the county.

(b) (1) As an alternative and in lieu of the apportionment formula provided in subsection (a), all revenue received by the director of taxation from a countywide retailers' sales tax imposed within Johnson county at the rate of .75% or 1% after the effective date of this act may be apportioned among the county and each city located in such county in the following manner: (A) The revenue received from the first .5% rate of tax shall be apportioned in the manner prescribed by subsection (a) and (B) the revenue received from the rate of tax exceeding .5% shall be apportioned as follows: (i) One-fourth shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year and (ii) one-fourth shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county and (iii) one-half shall be retained by the county for its sole use and benefit.

(2) In lieu of the apportionment formula provided in subsection (a), all money received by the director of taxation from a countywide sales tax imposed within Montgomery county pursuant to the election held on November 8, 1994, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged. All revenue apportioned and paid from the imposition of such tax to the treasurer of any city prior to the effective date of this act shall be remitted to the county treasurer and expended only for the purpose for which the revenue received from the tax was pledged.

(c) (1) Except as otherwise provided by paragraph (2) of this subsection, for purposes of subsections (a) and (b), the term "total tangible property tax levies" means the aggregate dollar amount of tax revenue derived from ad valorem tax levies applicable to all tangible property located within each such city or county. The ad valorem property tax levy of any county or city district entity or subdivision shall be included within this term if the levy of any such district entity or subdivision is applicable to all tangible property located within each such city or county.

(2) For the purposes of subsections (a) and (b), any ad valorem property tax levied on property located in a city in Johnson county for the purpose of providing fire protection service in such city shall be included within the term "total tangible property tax levies" for such city regardless of its applicability to all tangible property located within each such city. If the tax is levied by a district which extends across city boundaries, for purposes of this computation, the amount of such levy shall be apportioned among each city in which such district extends in the proportion that such tax levied within each city bears to the total tax levied by the district.

(d) ~~(1)~~ All revenue received from a countywide retailers' sales tax imposed pursuant to paragraphs (2), (5), (6), (7), (8) ~~or~~, (9) or (10) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

~~(2) Except as otherwise provided in paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, all revenues received from a countywide retailers' sales tax imposed pursuant to paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.~~

(e) All revenue apportioned to the several cities of the county shall be paid to the respective treasurers thereof and deposited in the general fund of the city. Whenever the territory of any city is located in two or more counties and any one or more of such counties do not levy a countywide retailers' sales tax, or whenever such counties do not levy coun-

tywide retailers' sales taxes at a uniform rate, the revenue received by such city from the proceeds of the countywide retailers' sales tax, as an alternative to depositing the same in the general fund, may be used for the purpose of reducing the tax levies of such city upon the taxable tangible property located within the county levying such countywide retailers' sales tax.

(f) Prior to March 1 of each year, the secretary of revenue shall advise each county treasurer of the revenue collected in such county from the state retailers' sales tax for the preceding calendar year.

(g) Prior to December 31 of each year, the clerk of every county imposing a countywide retailers' sales tax shall provide such information deemed necessary by the secretary of revenue to apportion and remit revenue to the counties and cities pursuant to this section.

*(h) The provisions of subsections (a) and (b) for the apportionment of countywide retailers' sales tax shall not apply to any revenues received pursuant to a county or countywide retailers' sales tax levied or collected under K.S.A. 2000 Supp. 74-8929, and amendments thereto. All such revenue collected under K.S.A. 2000 Supp. 74-8929, and amendments thereto, shall be deposited into the redevelopment bond fund established by K.S.A. 2000 Supp. 74-8927, and amendments thereto, for the period of time set forth in K.S.A. 2000 Supp. 74-8927, and amendments thereto.*

By renumbering existing sections accordingly;

Also, on page 11, in line 34, by striking "and" and inserting a comma; in line 35, before "are" by inserting "12-189 as amended by section 1 of 2001 Senate Bill No. 253, 12-192 and 12-192c";

In the title, in line 17, by striking "and" and inserting a comma; in line 18, before "and" by inserting "and 12-192"; in line 19, before the period by inserting "; also repealing K.S.A. 2000 Supp. 12-189 as amended by section 1 of 2001 Senate Bill No. 253 and 12-192c"; and the bill be passed as further amended.

Committee on Commerce begs leave to submit the following report:

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

By the Governor:

Kansas, Inc.: K.S.A. 74-8001

Patricia L. Bossert, term expires January 15, 2004

Wayne H. Maichel, term expires January 15, 2005

Lawrence L. McCants, term expires January 15, 2005

Tamera J. Nelson, term expires January 15, 2005

Committee on **Federal and State Affairs** recommends **SCR 1611** be amended on page 1, in line 15, preceding "resident" by inserting "four"; in line 26, by striking "has" and inserting "and the four resident tribes have"; following line 29, by inserting:

"WHEREAS, The four resident tribes have participated actively in such litigation with the State of Kansas against the Wyandotte Tribe of Oklahoma; and";

Also on page 1, in line 35, by striking "would authorize" and inserting "could lead to";

On page 2, in line 1, by striking all following "legislation" and inserting "; and

WHEREAS, The four resident tribes are in support of the Governor's position and wholly opposed the proposed amendment in House Resolution No. 291; Now, therefore,"; and the concurrent resolution be adopted as amended.

Committee on **Ways and Means** recommends **SB 343** be passed.

#### **REPORT ON ENGROSSED BILLS**

**SB 11, SB 98, SB 184, SB 205, SB 209** reported correctly engrossed March 28, 2001.

Also, **SB 1, SB 10** reported correctly re-engrossed March 28, 2001.

#### **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 Vratil in the chair.

On motion of Senator Vratil the following report was adopted:

Recommended **HB 2128, HB 2550, HB 2551, HB 2552** be passed.

**HB 2145** be amended by adoption of the committee amendments.

Senator Donovan moved to amend the bill on page 3, line 22 through 25, by striking Section C, the motion failed and the amendment was rejected.

The Committee recommended **HB 2145**, be passed as amended.

**HB 2268** be amended by adoption of the committee amendments.

Senator Oleen moved to amend the bill as amended by Senate Committee, on page 3, in line 1, by striking "72-6431.,"; following line 24, by inserting:

"(c) The provisions of this section shall not exempt any such property described in subsections (a) or (b) from any property taxes levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto.";

Also on page 3, in line 25, by striking "(c)" and inserting "(d)";

On page 4, following line 2, by inserting:

"(c) No governing body of any city or county shall exempt any such property described in subsections (a) or (b) from any property taxes levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto.";

Also on page 4, in line 3, by striking "(c)" and inserting "(d)"; following line 14, by inserting:

"(c) The provisions of this section shall not exempt any such property described in subsection (a) from any property taxes levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto.";

Also on page 4, in line 15, by striking "(c)" and inserting "(d)"

The motion failed and the amendment was rejected and **HB 2268** be passed as amended.

**HCR 5009** be amended by adoption of the committee amendments, and the concurrent resolution be adopted as amended.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Thursday, March 29, 2001.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

