

Journal of the Senate

SIXTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, May 1, 2001—10:00 a.m.

The Senate was called to order by Vice-President Sandy Praeger.
The roll was called with thirty-nine senators present.
Senator Brungardt was excused.
Vice-President Praeger introduced Senator Salmans, who delivered the invocation:

Our Father, Creator and Savior

We thank you for the beauty of this day. We acknowledge your gift of life; knowing that every breath we breathe is a gift from you. In the final hours of this session we humbly seek your wisdom and guidance, knowing that without your blessing all our labors are in vain.

God Grant us the serenity to accept the things we cannot change, the courage to change the things we can, and the wisdom to know the difference.

In Jesus' Name we pray
Amen

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Assessment and Taxation: **HB 2586**.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 214**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Jackson, Hensley and Jenkins introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1854—

A RESOLUTION congratulating and commending the Topeka High School Marine Corps Junior ROTC drill team.

WHEREAS, The Topeka High School Marine Corps Junior ROTC drill team won the team championship at the 2001 National High School Drill Team competition held in Daytona Beach, Florida. A total of 77 teams from 25 states, Puerto Rico and Japan competed; and

WHEREAS, This was the fourth year for the Topeka High drill team to compete at the national level; they were runners-up last year. Topeka High competed in both divisions—armed and unarmed; they came home with six trophies: Fifth in unarmed inspection, fourth in armed color guard, fourth in armed regulation, first in armed inspection, first in armed exhibition plus the national championship trophy in the armed division; and

WHEREAS, There were also several outstanding individual winners in the Armed and Unarmed Knock Out Competition. Cadet/Lt. Colonel Elizabeth Colpitts, a senior, placed

first out of a field of 1,700 cadets in the Armed Division. In the Unarmed Division, out of a field of 2,500 cadets—Cadet/Corporal Rocco Gutierrez, a freshman, placed third; Cadet/Major Courtney Lolley, a senior, placed second; and Cadet/Corporal Michael Colpitts, a sophomore, placed first. It was the first time that a brother and sister have ever won both divisions and the first time three cadets from the same school have placed in the top three in one division; and

WHEREAS, Forty-two drill team members competed at the national meet. They were directed by Topeka High School Marine ROTC Instructor Curt Kelley. The team returned home Sunday, April 29, 2001, to be welcomed by a large group of exuberant fans and supporters upon the team's arrival at Topeka High School; and

WHEREAS, Winning the national championship was the result of hours and hours of practice and drilling as a team, from the dedication and desire of the individual members, from the skill and devotion of their drill superiors and the support and encouragement of parents, friends and school administrators; and all deserve recognition for this achievement: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Topeka High School Marine Corps Junior ROTC Drill Team for winning the 2001 National High School Drill Team Competition; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Dr. Robert McFrazier, Superintendent, USD 501, and Ron Browning, both at 624 SW 24th St., Topeka, Kansas 66606; plus Dr. Patricia Pressman, Principal, and Major Bob Funk and Topeka High School Instructor Curt Kelley, Marine Corps Junior ROTC unit; and Captain Dan Kalsen, Junior ROTC Project Officer, 9th Marine Corps District, all at 800 SW 10th St., Topeka, Kansas 66612-1687.

On emergency motion of Senator Jackson **SR 1854** was adopted unanimously.

Senator Jackson and members of the Senate congratulated the drill team with a standing ovation.

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

SENATE RESOLUTION No. 1855—

A RESOLUTION commending the Kansas City Interfaith Council and the Center for Religious Experience and Study for sponsoring The Gifts of Pluralism.

WHEREAS, The Gifts of Pluralism, which is the first truly multi-faith conference in the Kansas City area, will be held October 26-28, 2001, at Pembroke Hill School located on the Kansas-Missouri state border. The conference is sponsored by the Kansas City Interfaith Council and managed by the Center for Religious Experience and Study. American Indian, Baha'i, Buddhist, Christian, Hindu, Jewish, Muslim, Sikh, Sufi, Unitarian Universalist, Wiccan and Zoroastrian faiths are participating; and

WHEREAS, The conference brings the wisdom of the world's religious traditions together to address environmental, personal and social questions of our time, with the focus on Kansas City. The conference arises from the experience of the members of the Interfaith Council, and many other people, that learning about other faiths is a way of deepening one's own; and

WHEREAS, The conference is open to anyone, but religious leaders, lay and clergy, and civic leaders are especially invited: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commend the Kansas City Interfaith Council for sponsoring the conference, The Gifts of Pluralism, and support its objectives; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to The Reverend Vern Barnet, DMn, Minister in Residence, CRES, P.O. Box 4165, Overland Park, Kansas 66204.

On emergency motion of Senator Adkins **SR 1855** was adopted unanimously.

REPORT ON ENGROSSED BILLS

Sub SB 171; SB 363; Sub SB 365 reported correctly engrossed April 30, 2001.

On motion of Senator Oleen, the Senate recessed until 3:00 p.m.

AFTERNOON SESSION

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

COMMUNICATIONS FROM STATE OFFICERS

NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

Saipan, MP

April 25, 2001

Nicolasa B. Borja, Senate Clerk, transmitted a certified copy of Senate Resolution No. 12-33, entitled "A Senate Resolution Requesting the Congress of the United States to adopt an amendment to the Constitution of the United States, to add a new article on the Subject of Judicial Taxation."

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 the House adopts the conference committee report on **SB 14**.

The House adopts the conference committee report on **HB 2059**.

The House adopts the conference committee report on **HB 2124**.

The House adopts the conference committee report on **HB 2178**.

The House concurs in Senate amendments to **Senate Substitute for Substitute HB 2468** and requests the Senate to return the bill.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 52** and has appointed Representatives Wilk, Neufeld and Nichols 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 332** and has appointed Representatives Edmonds, Sloan and Larkin as conferees on the part of the House.

Announcing, the House not adopts the conference committee report on **HB 2174**.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 14**, **SB 239**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Wagle moved the Senate concur on house amendments to **SB 239**.

SB 239, An act relating to the Kansas trauma system; amending K.S.A. 2000 Supp. 75-5664 and repealing the existing section.

On roll call, the vote was: Yeas 37, Nays 2, 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, Oleen, Praeger, Pugh, Salmans, Schmidt, Scho-dorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: O'Connor, Tyson.

Absent or Not Voting: Brungardt.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 14**, 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 amendments, as follows:

On page 2, in line 17, after the stricken material, by inserting “conducted by: (1) A program or individual approved pursuant to rules of the supreme court adopted pursuant to the dispute resolution act; or (2) an individual licensed to practice law in the state of Kansas”;

And your committee on conference recommends the adoption of this report.

MICHAEL O'NEAL
WARD LOYD
JANICE L. PAULS
Conferees on part of House

JOHN VRATIL
LANA OLEEN
GRETA GOODWIN
Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 14**.

On roll call, the vote was: Yeas 37, Nays 2, 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, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Scho-dorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Jenkins, Tyson.

Absent or Not Voting: Brungardt.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amend-ments to **SB 214**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on con-ference further agrees to amend the bill, as printed with House Committee amendments, as follows:

On page 1, in line 20, by striking “human remains” and inserting “dead human bodies”; in line 23, by striking “human”; in line 24, by striking “remains” and inserting “dead human bodies”; in line 28, by striking “human remains” and inserting “dead human bodies”; in line 32, after “cremation” by inserting “of a dead human body”; in line 34, by striking “human remains” and inserting “dead human body”; in line 38, before “remains” by inserting “cremated”;

On page 2, in line 1, after the stricken material by inserting “Such chambers shall be used exclusively for the cremation of human remains.”; following line 5 by inserting the following:

“(h) “Crematory operator in charge” means the crematory operator who is responsible to ensure that the crematory’s license is current and that the licensed crematory is in com-pliance with the laws and regulations of this state. Nothing in this definition shall relieve other persons involved with a cremation from complying with state and federal laws and regulations.

(i) “Dead human 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.”;

And by relettering the remaining subsections accordingly;

Also on page 2, in line 6, by striking all after “person”; by striking all of lines 7 and 8; in line 9, by striking all before the period and inserting “who holds a current license as a

funeral director issued by the board"; in line 10, by striking all after "a"; by striking all of lines 11 and 12; in line 13, by striking all before the period and inserting "funeral establishment or branch establishment as licensed by the board"; in line 15, by striking "human remains" and inserting "dead human bodies"; in line 19, by striking "human remains" and inserting "dead human body"; in line 20 by striking "licensed crema-"; in line 21, by striking "tory" and inserting "crematory's"; in line 25, after "harm" by inserting "or damage"; by striking all of lines 26 through 33; by striking all of lines 39 through 41; and by relettering subsections accordingly;

On page 3, in line 8, by striking the comma and inserting "and"; in line 9, by striking "human remains" and inserting "dead human bodies"; in line 12, by striking "remains" and inserting "dead human bodies"; by striking all of lines 16 through 19; in line 20, before "No" by inserting "(a) The crematory operator in charge shall supervise the licensed crematory on a full-time or a part-time basis and perform such other duties relating to the supervision of a licensed crematory as prescribed by the board by rules and regulations.

(b)";

Also on page 3, in line 21, after "dead" by inserting "human"; in line 22, by striking "(a)" and inserting "(1)"; in line 24, by striking "(1)" and inserting "(A)"; also in line 24, by striking "human remains" and inserting "dead human body"; in line 27, by striking "self motivated"; in line 33, by striking "human remains" and inserting "dead human body"; in line 34, by striking "human remains do" and inserting "dead human body does"; in line 39, by striking "operator"; and by renumbering and relettering subsections accordingly;

On page 4, in line 1, by striking all before "to" and inserting "dead human body is"; in line 4, by striking "human remains" and inserting "dead human body"; in line 5, by striking "or embalmer" and inserting ", embalmer or crematory operator in charge"; in line 6, after "a" by inserting "known"; in line 7, by striking "ultimately"; in line 8, before "pacemaker" by inserting "known"; in line 9, by striking "human remains" and inserting "dead human body"; in line 15, by striking "human remains" and inserting "dead human bodies"; in line 17, by striking "human remains" and inserting "dead human body"; in line 19, by striking "human remains" and inserting "dead human body"; in line 20, by striking "human remains have" and inserting "dead human body has"; in line 21, by striking "human remains" and inserting "dead human body"; in line 22, by striking all after "establishment" where it appears for the second time; in line 23, by striking all before the semicolon; in line 24, after "operator" by inserting "in charge"; in line 26, by striking "human remains" and inserting "dead human body"; in line 28, by striking "human remains are" and inserting "dead human body is"; in line 32, by striking "human remains" and inserting "dead human bodies"; in line 37, before "remains" by inserting "cremated";

On page 5, in line 33, by striking "and" and inserting "in charge or"; in line 36, by striking "or" and inserting a comma; also in line 36, before "shall" by inserting "or crematory operator in charge"; in line 37, by striking "human remains" and inserting "a dead human body"; in line 38, by striking "A crematory"; by striking all of line 39; in line 40, by striking all before "A"; in line 41, after "operator" by inserting "in charge"; in line 42, by striking "human"; in line 43, by striking "remains" and inserting "a dead human body";

On page 6, in line 2, by striking "or" and inserting a comma; also in line 2, before "who" by inserting "or crematory operator in charge"; in line 3, by striking "and a crematory operator who refuses,"; also in line 3, by striking "body" and inserting "dead human body"; in line 4, before "accept" by inserting "arrange, to"; in line 5, by striking "body" and inserting "dead human body"; in line 8, by striking "human"; in line 9, by striking "remains" and inserting "dead human body"; in line 13, by striking "or" and inserting a comma; in line 14, by striking "and" and inserting "or"; also in line 14, after "operator" by inserting "in charge"; in line 16, by striking all after "the" where it appears for the first time; in line 17, by striking "director shall also" and inserting "dead human body such informed person shall"; in line 18, by striking "before de-"; in line 19, by striking all before the period"; also in line 19, by striking "the" where it appears for the third time and inserting "a"; in line 20, by striking all after "director"; in line 21, by striking "matory fail" and inserting "who delivers a dead human body to a crematory after being informed that a pacemaker or hazardous implant is within the dead human body and fails"; in line 22, by striking "human remains" and inserting "dead human body"; also in line 22, by striking "(a)" and inserting "(b)"; in line 23, by

striking "human re-"; in line 24, by striking "mains" and inserting "dead human body"; also in line 24, by striking "the" where it appears for the second time and inserting "such"; in line 25, by striking "human"; in line 26, by striking "remains" and inserting "dead human body"; also in line 26, by striking "also"; in line 27, by striking all before the period; in line 30, by striking "hu-"; in line 31, by striking "man remains" and inserting "ad human bodies" also in line 31, by striking "dying" and inserting "who died"; in line 35, by striking "shall"; in line 36, by striking all before the period; in line 37, by striking "enact" and inserting "adopt"; in line 39, by striking all after "board"; by striking all of lines 40 through 43;

On page 7, in line 1, by striking all before the period; in line 3, by striking the comma and inserting "or"; also in line 3, by striking "or publicly or privately ensure a"; in line 4, by striking "licensee" where it appears for the first time and inserting "for the crematory"; also in line 4, by striking "a licensee or applicant for a license" and inserting "the crematory operator in charge"; by striking all of lines 8 and 9; in line 10, by striking "(3)" and inserting "(2)"; in line 15, by striking "licensee"; in line 16, by striking "or applicant" and inserting "crematory operator in charge"; by striking all of lines 17 and 18; in line 36, by striking "licensee" and inserting "crematory operator in charge or the crematory"; in line 38, by striking all after "court"; in line 39, by striking all before the semicolon; by striking all of lines 40 through 43; and by renumbering paragraphs accordingly;

On page 8, in line 6, by striking "been censured"; also in line 6, by striking "disciplinary"; in line 18, before "any" by striking "this section or"; also in line 18, by striking "other"; in line 20, by striking all after "8."; by striking all of lines 21 through 25 and inserting the following: "This act shall take precedence over any conflicting Kansas laws, other than state environmental laws, that govern the handling and disposition of dead human bodies for cremation and cremated remains.";

On page 9, in line 5, by striking all after "person"; in line 6, by striking all before "or" and inserting "who is not an operator in charge of a crematory under this act to operate a crematory"; in line 28, after "operator" by inserting "in charge";

On page 10, following line 20, by inserting:
"Funeral establishment/crematory renewal fee, not more than 1000";

Also on page 10, following line 21, by inserting:
"Branch establishment/crematory renewal fee, not more than 1000";

Also on page 10, in line 32, after the period by inserting "An owner of a licensed funeral establishment or licensed branch establishment and a licensed crematory may be charged by the board a combined funeral establishment/crematory license or renewal fee or branch establishment/crematory license or renewal fee under this section in lieu of a separate license or renewal fee for each facility.";

On page 11, in line 10, after "agent" by inserting "as defined under section 1 of this act, and amendments thereto"; in line 17, by striking "and (c) this disposition" and inserting "Disposition";

And your committee on conference recommends the adoption of this report.

GARRY BOSTON
JIM MORRISON
JUDY SHOWALTER
Conferees on part of House

SUSAN WAGLE
JIM BARNETT
DAVID HALEY
Conferees on part of Senate

Senator Wagle moved the Senate adopt the Conference Committee Report on **SB 214**.

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, Emler, 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 Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2297**, submits the following report:

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

On page 1, in line 18, by striking "July" and inserting "January"; also in line 18, by striking "June 30" and inserting "December 31"; in line 19, by striking "2004" and inserting "2003"; in line 20, by striking "July" and inserting "January"; in line 21, by striking "June 30" and inserting "December 31"; also in line 21, by striking "2005" and inserting "2004"; in line 23, by striking "July" and inserting "January"; also in line 23, by striking "June 30" and inserting "December 31"; in line 24, by striking "2006" and inserting "2005"; in line 25, by striking "July" and inserting "January"; following line 39, by inserting the following:

"(d) Any additional court of appeals judge position created by this section shall be considered a position created by the supreme court and not a civil appointment to a state office pursuant to K.S.A. 46-234, and amendments thereto.";

On page 3, following line 27, by inserting the following:

"Sec. 4. K.S.A. 46-234 is hereby amended to read as follows: 46-234. No elected state officer shall within one year after the expiration of such officer's last term receive any civil appointment to a state office which was created by law during the last term for which such person had been elected, and all such appointments shall be void. Upon resignation by an elected state officer, such person may be appointed to any elective state office to fill a vacancy. As used in this section, the term "civil appointment to a state office" shall not include an additional district judge position created by K.S.A. 20-355, and amendments thereto, or an additional court of appeals judge position created by K.S.A. 20-3002, and amendments thereto.";

And renumber the remaining sections accordingly;

Also on page 3, in line 28, by deleting "and" and inserting a comma; also in line 28, after "20-3006" by inserting "and 46-234";

On page 1, in the title, in line 13, by striking "and" where it appears for the first time and inserting a comma; also in line 13, after "20-3006" by inserting "and 46-234";

And your committee on conference recommends the adoption of this report.

STEPHEN R. MORRIS
DAVID ADKINS
PAUL FELECIANO, JR.
Conferees on part of Senate

MICHAEL O'NEAL
WARD LOYD
JANICE L. PAULS
Conferees on part of House

Senator Morris moved the Senate adopt the Conference Committee Report on **HB 2297**.

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 Conference Committee report was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Kerr, Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1856—

A RESOLUTION congratulating and commending James W. Woods for his many years of service to the Kansas Senate.

WHEREAS, James W. Woods, the sergeant-at-arms for the Kansas Senate, is retiring at the end of this year; and

WHEREAS, James W. Woods has worked for the Kansas legislature since 1985 and has been the Senate sergeant-at-arms since 1990. Jim has served under four Senate Presidents, Senators Talkington, Burke, Bond and Kerr. He has been a member of the National Legislative Service and Security Association since 1990 and served as its treasurer from 1996 to 2000. This is an organization of sergeants-at-arms, security personnel, state police and support services staff of the nation's state legislatures. Last year Jim received their highest honor, the John Everhardt "Trooper" Award for his outstanding professionalism and integrity; and

WHEREAS, James W. Woods' many years of public service have earned him a place of honor and respect; and

WHEREAS, The sergeant-at-arms is responsible for preserving order within the chamber of the Senate and its lobby and gallery. Mr. Woods efforts have enabled the Senate to function as a more efficient governing body and have earned him the respect and gratitude of the members of the Senate and the visiting citizens of Kansas, the United States and dignitaries from other countries; and

WHEREAS, James W. Woods retired from the Atchison, Topeka and Santa Fe Railroad in 1983 after 45 years of service in which he participated in a number of industry committee activities and projects and was the state and national chairman for National Transportation Week; and

WHEREAS, James W. Woods spent four years in the Army during World War II being separated in 1946 as a Captain. He continued in the United States Army Reserve program and retired upon completion of 30 years service as a Lieutenant Colonel; and

WHEREAS, James W. Woods and his wife, Margaret, have two children, James W. Woods, Jr., who is deceased, and Glenn Craig Woods of Stilwell. His family also includes his daughter-in-law, Linda, a granddaughter, Jenna, and a grandson, Steven: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend James W. Woods for his exemplary service to the Kansas Senate, recognize his many years of service to his country, his state and his community, congratulate him upon his retirement as sergeant-at-arms for the Senate, and wish him well in his postretirement activities; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Mr. James W. Woods.

On emergency motion of Senator Praeger **SR 1856** was adopted unanimously.

President Kerr and members of the Senate paid tribute to Jim with a standing ovation and reception and thanked him for his many years of service.

Sitting in the VIP section were his wife, Margaret; his son and daughter-in-law, Glenn and Linda Woods; and his granddaughter, Jenna. Accompanying the family were Mr. and Mrs. Curtis Harding and Mr. and Mrs. Bob Willard.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HCR 5032** be adopted.

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 Development Finance Authority, Board of Directors: K.S.A. 74-8903

Thomas C. Blackburn, term expires January 15, 2005

John G. Montgomery, term expires January 15, 2005

Thomas A. Page, term expires January 15, 2005

Committee on **Ways and Means** recommends **HB 2590**, as amended by House Committee of the Whole, be amended on page 2, in line 10, by striking all after the stricken word "died"; in line 11, by striking "officer or" and inserting "died"; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 366 reported correctly engrossed May 1, 2001.

REPORT ON ENROLLED BILLS

SR 1846, SR 1847, SR 1848, SR 1849, SR 1850, SR 1851, SR 1852, SR 1853 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 1, 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 Jordan in the chair.

On motion of Senator Jordan the following report was adopted:

Recommended **HB 2591, HB 2594, HB 2595, HB 2597** be passed.

HB 2599 be amended by motion of Senator O'Connor on page 10, following line 8, by inserting:

"New Sec. 4. As used in this act:

(a) "Generally accepted operation practice" means those safety practices adopted, pursuant to rules and regulations, by the Kansas department of wildlife and parks and established by a nationally recognized nonprofit membership organization that provides voluntary firearms safety programs which include training individuals in the safe handling and use of firearms and which practices are developed with consideration of all information reasonably available regarding the operation of shooting ranges.

(b) "Local unit of government" means a county, city, township or any other political subdivision of the state, or any agency, authority, institution or instrumentality thereof.

(c) "Person" means an individual, proprietorship, partnership, corporation, club, governmental entity or other legal entity.

(d) "Sport shooting range" or "range" means an area designed and operated for the use of archery, rifles, shotguns, pistols, semiautomatic firearms, skeet, trap, black powder or any other similar sport shooting.

New Sec. 5. (a) Notwithstanding any other provisions of law, and in addition to other protections provided in this act, a person who owns, operates, manages or uses a sport shooting range that conforms to generally accepted operation practices in the state is not subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances or resolutions that applied to the range and its operation at the time of construction and initial operation of the range.

(b) In addition to any civil protection provided by the act, a person who owns, operates, manages or uses a sport shooting range that conforms to generally accepted operation practices is not subject to an action for nuisance, and a court of the state shall not enjoin or restrain the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances or resolutions that applied to the range and its operation at the time of construction or initial operation of the range.

(c) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere do not apply to a sport shooting range immune from liability under this act. However, this subsection does not constrict the application of any provision of generally accepted operation practices.

(d) A person who acquires title to real property adversely affected by the use of property with a permanently located and improved sport shooting range constructed and initially operated prior to the time the person acquires title shall not maintain a nuisance action on the basis of noise or noise pollution or based upon known or inherent dangers against the person who owns, operates or uses the range to restrain, enjoin, or impede the use of the range. This section does not prohibit actions for negligence or recklessness in the operation of the range.

New Sec. 6. (a) A sport shooting range that is operated and is not in violation of state law at the time of the enactment of an ordinance or resolution shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or resolution or amendment to an existing ordinance or resolution.

(b) A sport shooting range that is in existence as of the effective date of this act and operates in compliance with generally accepted operation practices, even if not in compliance with an ordinance or resolution of a local unit of government, shall be permitted to do all of the following within its preexisting geographic boundaries if in compliance with generally accepted operation practices:

(1) Repair, remodel or reinforce any improvement or facilities or building or structure as may be necessary in the interest of public safety or to secure the continued use of the building or improvement;

(2) reconstruct, repair, rebuild or resume the use of a facility or building damaged by fire, collapse, explosion, act of God or act of war occurring after the effective date of this act. The reconstruction, repair or restoration shall be completed within one year following the date of the damage or settlement of any property damage claim. If reconstruction, repair or restoration is not completed within one year as provided in this subsection, such reconstruction, repair or restoration may be terminated in the discretion of the local unit of government; or

(3) do anything authorized under generally accepted operation practices, including, but not limited to:

(A) Expand or enhance its membership or opportunities for public participation; and

(B) reasonably expand or increase facilities or activities.

New Sec. 7. (a) Except as otherwise provided, the provisions of this act shall not prohibit a local unit of government from regulating the location and construction of a sport shooting range.

(b) No person or governmental entity may take title to property which has a permanently located and improved sport shooting range, by condemnation, eminent domain or similar process when the proposed use of said property would be for shooting related activities or recreational activities or for private or commercial development. However, this provision does not limit governmental exercise of eminent domain or easement necessary for infrastructure additions or improvements, such as highways, waterways or utilities.

New Sec. 8. The secretary of the Kansas department of wildlife and parks is hereby authorized to adopt rules and regulations necessary to implement the provisions of this act. Rules and regulations establishing generally accepted operation practices shall be adopted and be in effect on or before January 1, 2002.”;

By renumbering sections accordingly;

In the title, in line 9, following the semicolon, by inserting “relating to the powers and duties of the secretary of wildlife and parks; relating to sport shooting ranges;”

A ruling of the chair was requested as to the germaneness of the amendment to the bill.

The chair ruled the amendment was germane.

The amendment passed and the committee recommended **HB 2599** be passed as amended.

HB 2600 be amended by motion of Senator Vratil on page 37, in line 8, by striking “3” and inserting “4”;

In the title, in line 24, by striking “3” and inserting “4”, and **HB 2600** 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 **HB 2591**, **HB 2594**, **HB 2595**, **HB 2597**, **HB 2599**, **HB 2600** were advanced to Final Action and roll call.

HB 2591, An act relating to annual reports; concerning economic development incentive effectiveness; amending K.S.A. 2000 Supp. 74-8017 and repealing the existing section; also repealing K.S.A. 2000 Supp. 74-8017, as amended by section 1 of 2001 House Bill No. 2219, was considered on final action.

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

Yeas: 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 bill passed.

HB 2594, An act concerning social and rehabilitation services; relating to the sale of certain real estate; disposition of proceeds; amending K.S.A. 2000 Supp. 75-3365, as amended by section 383 of 2001 Senate Bill No. 15, and repealing the existing section, was considered on final action.

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

Yeas: 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 bill passed.

HB 2595, An act amending the Kansas mortgage business act; amending K.S.A. 2000 Supp. 9-2201, as amended by section 2 of 2001 House Bill No. 2481 and repealing the existing section, was considered on final action.

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

Yeas: 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 bill passed.

HB 2597, An act concerning state moneys; providing for the reconciliation of amend-ments to certain sections of the Kansas Statutes Annotated; amending K.S.A. 75-4221, as amended by section 1 of 2001 House Bill No. 2169, 79-32,105, as amended by section 4 of 2001 Senate Bill No. 44 and 79-41a03, as amended by section 1 of 2001 Senate Bill No. 42 and K.S.A. 2000 Supp. 9-1111b, as amended by section 41 of 2001 Senate Bill No. 15, 9-1804, as amended by section 14 of 2001 House Bill No. 2482, 65-3424b, as amended by section 245 of 2001 Senate Bill No. 15, 65-3424d, as amended by section 246 of 2001 Senate Bill No. 15, 65-3424k, as amended by section 6 of 2001 House Bill No. 2131, 66-1,139a, as amended by section 273 of 2001 Senate Bill No. 15, 79-3425, as amended by section 454 of 2001 Senate Bill No. 15, 79-3620, 79-3620, as amended by section 10 of this act, 79-3710, 79-3710, as amended by section 12 of this act and repealing the existing sections; also repealing K.S.A. 17-7515, as amended by section 66 of 2001 Senate Bill No. 15, 65-770, as amended by section 225 of 2001 Senate Bill No. 15, 72-6505, as amended by section 292 of 2001 Senate Bill No. 15, 79-32,105, as amended by section 448 of 2001 Senate Bill No. 15 and 79-41a03, as amended by section 463 of 2001 Senate Bill No. 15 and K.S.A. 2000 Supp. 2-1011, as amended by section 9 of 2001 Senate Bill No. 15, 8-1,112, as amended by section 30 of 2001 Senate Bill No. 15, 9-1111b, as amended by section 8 of 2001 House Bill No. 2482, 9-1804, as amended by section 45 of 2001 Senate Bill No. 15, 65-708a, as amended by section 223 of 2001 Senate Bill No. 15, 65-750, as amended by section 224 of 2001 Senate Bill No. 15, 65-3424b, as amended by section 3 of 2001 House Bill No. 2131,

65-3424d, as amended by section 4 of 2001 House Bill No. 2131, 65-3424k, as amended by section 247 of 2001 Senate Bill No. 15, 66-1,139, as amended by section 272 of 2001 Senate Bill No. 15, 66-1,139a, as amended by section 15 of 2001 House Bill No. 2291, 66-1a01, as amended by section 275 of 2001 Senate Bill No. 15, 79-3425, as amended by section 1 of 2001 House Bill No. 2011, 79-3620, as amended by section 16 of 2001 Substitute for House Bill No. 2005, 79-3620, as amended by section 460 of 2001 Senate Bill No. 15, 79-3710, as amended by section 18 of 2001 Substitute for House Bill No. 2005, and 79-3710, as amended by section 461 of 2001 Senate Bill No. 15, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Clark, Corbin, Donovan, Downey, Emler, 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 bill passed.

HB 2599. An act concerning wildlife and parks; relating to the powers and duties of the secretary of wildlife and parks; relating to sport shooting ranges; relating to commercial guide services; concerning reports of disposition of certain prosecutions; amending K.S.A. 32-964 and 32-1054 and K.S.A. 2000 Supp. 21-4619 and repealing the existing sections; also repealing K.S.A. 32-964, as amended by section 2 of 2001 House Bill No. 2098, K.S.A. 32-1054, as amended by section 3 of 2001 House Bill No. 2098, and K.S.A. 2000 Supp. 21-4619, as amended by section 1 of 2001 House Bill No. 2098, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Barnett, Barone, Brownlee, Clark, Donovan, Emler, Feleciano, Gilstrap, Gooch, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Nays: Allen, Corbin, Downey, Goodwin, Kerr, Lee, Oleen, Praeger, Vratil.

Absent or Not Voting: Brungardt.

The bill passed, as amended.

HB 2600. An act reconciling amendments to certain statutes; amending K.S.A. 38-1502, 38-1503, 38-1583, 45-221, K.S.A. 2000 Supp. 12-192, 60-304, 61-4001, 65-5812, K.S.A. 2000 Supp. 8-128, as amended by section 1 of 2001 Senate Bill No. 73, K.S.A. 2000 Supp. 19-101a, as amended by section 14 of 2001 Substitute for House Bill No. 2005, K.S.A. 25-205, as amended by section 1 of 2001 Senate Bill No. 125, K.S.A. 25-1122, as amended by section 9 of 2001 Senate Bill No. 125, K.S.A. 25-2309, as amended by section 1 of 2001 Senate Bill No. 63, K.S.A. 25-2320, as amended by section 2 of 2001 Senate Bill No. 63, K.S.A. 25-3602, as amended by section 2 of 2001 Senate Bill No. 107, and K.S.A. 32-988, as amended by section 2 of 2001 Senate Bill No. 148; also repealing K.S.A. 38-1502d, 38-1503a, 38-1583a, 45-221e, 45-221f, K.S.A. 2000 Supp. 12-192c, 20-367b, 60-304a, 61-1803, 61-1807, 61-2501, 65-5812a, K.S.A. 2000 Supp. 8-128, as amended by section 1 of 2001 House Bill No. 2144, K.S.A. 2000 Supp. 19-101a, as amended by section 4 of 2001 House Bill No. 2068, K.S.A. 25-205, as amended by section 1 of 2001 Senate Bill No. 127, K.S.A. 25-1122, as amended by section 4 of 2001 Senate Bill No. 127, K.S.A. 25-2309, as amended by section 5 of 2001 Senate Bill No. 127, K.S.A. 25-2320, as amended by section 12 of 2001 Senate Bill No. 127, K.S.A. 25-3602, as amended by section 7 of 2001 Senate Bill No. 127, K.S.A. 32-988, as amended by section 1 of 2001 Senate Bill No. 147, and K.S.A. 32-1001, as amended by section 1 of 2001 Senate Bill No. 86, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Clark, Corbin, Donovan, Downey, Emler, 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 bill passed, as amended.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Wednesday, May 2, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

