

Journal of the Senate

FORTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 9, 2005—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-eight senators present.
Senators Allen and Wagle were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Your apostle Paul told the Ephesians “For it is by grace you have been saved through faith.” (Ephesians 2:8a)

One of Your disciples, Karl Loes, while hiding from the Nazis in a cellar, wrote on the wall what were probably his last words:

“I believe in the sun when it is not shining
I believe in love when I cannot feel it
I believe in God when He is silent.”

Sometimes when we call on You in the midst of trouble, O God, and You seem to be silent, what sustains us is not our wealth, not our fame, not our strength, not our wisdom. It is our FAITH! I am grateful it is not those things that not everyone has, but the one thing that is available to everyone...FAITH...which the book of Hebrews says gives us the ability to be “certain of what we do not see.” (Hebrews 11:1)

His faith is what sustained Karl Loes in the cellar and what sustains us when we do not hear You, O God. Remind us all to express our thanks for the eyes of faith.

I pray in the name of Jesus Christ,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:
Assessment and Taxation: **SB 292**.
Ways and Means: **SB 293**.

CHANGE OF REFERENCE

The President withdrew **SB 117** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Judiciary.

The President withdrew **SB 284** from the Committee on Ways and Means, and referred the bill to the Committee on Commerce.

COMMUNICATIONS FROM STATE OFFICERS

STATE OF THE JUDICIARY

Pursuant to KSA 20-320, Kay McFarland, Chief Justice, submitted the 2005 Annual Report of the Chief Justice of the Kansas Supreme Court.

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 2116, HB 2288, HB 2308, HB 2469, HB 2478.**

Also, passage of **SB 16; SB 266, as amended.**

In accordance with subsection (c) of Section 6 of Article 1 of the Constitution, the House of Representatives adopted **HR 6015**, a resolution disapproving **Executive Reorganization Order No. 33**, relating to reorganization of certain state health care programs and the establishment of a division of health policy and finance within the department of administration.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2116, HB 2288, HB 2308, HB 2469, HB 2478 were thereupon introduced and read by title.

FINAL ACTION ON CONSENT CALENDAR

HB 2147, HB 2206 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

HB 2147, An act concerning psychiatric evaluation reports of defendants and inmates; relating to the disclosure thereof; amending K.S.A. 75-5266 and repealing the existing section.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Allen, Wagle.

The bill passed.

HB 2206, An act concerning the department of corrections; relating to the disposal of abandoned inmate property; amending K.S.A. 75-5257 and repealing the existing section.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Allen, Wagle.

The bill passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

Sub SB 103, An act concerning insurance; relating to certain insurance policies issued to Kansas residents deployed in military service, was considered on final action.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Allen, Wagle.

The substitute bill passed.

Sub SB 211, An act concerning the Kansas national guard; providing for certain death benefits; amending K.S.A. 75-3713b and repealing the existing section, was considered on final action.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn,

Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Allen, Wagle.

The substitute bill passed, as amended.

SB 223, An act concerning payday loans; relating to fees; relating to collection from deployed military personnel; amending K.S.A. 2004 Supp. 16a-2-404 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 0, Absent or Not Voting 2.

Yeas: Apple, Barnett, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Betts, Haley, Lee, Steineger.

Absent or Not Voting: Allen, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote No on **SB 223**. Although I am an avid supporter of our military and as much a patriot as the next legislator, I cannot support this legislation which forgives, *temporarily*, the debt repayment of a payday loan by active servicemen and women...while raising the interest rate on most of the remaining loans made by the "payday" loan industry.

Mixing patriotism with an industry benefit which hurts the poor is shady legislation indeed.

Wrapping profit in the flag is circumspect and obviously blinding to many of our colleagues.

This industry should know that at least one Senator sees this activity for what it is and is not fooled by this disingenuous oxymoron.—DAVID HALEY

HB 2187, An act relating to the taxation of motor vehicles; concerning exemptions for certain military individuals; amending K.S.A. 2004 Supp. 79-5107 and repealing the existing section, was considered on final action.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Allen, Wagle.

The bill passed.

HCR 5005, A concurrent resolution urging the United States Department of Agriculture to reconsider the United States rule on cattle imports from Canada, was considered on final action.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Allen, Wagle.

The resolution was adopted, as amended.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1828—

A RESOLUTION urging groups and organizations to include in their printed calendars on the date February 22, these words: "34 star flag first flown."

WHEREAS, Lincoln's campaign for the Presidency began in Kansas, December 1859, when he spoke in Elwood, Troy, Doniphan, Atchison, and Leavenworth. To these five focus groups in Kansas, he gave all or part of his address later given on February 27, 1860, in New York City at Cooper Union. Historians acknowledge the Cooper Union presentation won Lincoln the Republican nomination and the White House; and

WHEREAS, On January 29, 1861, Kansas became the 34th state in the union. A 34 star flag was lifted toward the heavens for the first time above the roof of Independence Hall in Philadelphia on February 22, 1861, Washington's birthday; and

WHEREAS, The lines lifting the flag skyward were pulled by Abraham Lincoln at 6:00 o'clock in the morning as he was on his way to be inaugurated President of the United States; and

WHEREAS, Lincoln would not cancel this ceremony raising the 34 star flag for the first time because of his love for Kansas, even when his bodyguards insisted he not risk his life in Philadelphia; and

WHEREAS, This historic event was recorded on the front page of HARPER'S WEEKLY dated March 9, 1861: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That this body urges groups and organizations to include every year in their printed calendars on the date February 22, these words: "34 star flag first flown"; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Reverend Richard Taylor, 4831 S.E. 61st Street, Berryton, KS 66409.

On emergency motion of Senator Hensley **SR 1828** was adopted unanimously.

Senators joined Senator Hensley in welcoming Reverend Richard Taylor, who was a guest in the Senate Chamber.

REPORT ON ENGROSSED BILLS

Sub SB 211; SB 223 reported correctly engrossed March 9, 2005.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **SB 277** be passed.

Committee on **Elections and Local Government** recommends **HCR 5004**, as amended by House Committee of the Whole, be amended on page 1, in line 22, following "office" by inserting "and has failed to be in contact in any other way with the county election officer of the county in which such voter is registered"; in line 31, by striking " , at least," and inserting "the preceding"; in line 32, following "office" by inserting "and has failed to be in contact in any other way with the county election officer of the county in which such voter is registered"; in line 41, following "office" by inserting "and has failed to be in contact in any other way with the county election officer of the county in which such voter is registered";

On page 2, in line 7, by striking " , at least," and inserting "the preceding"; in line 8, following "office" by inserting "and has failed to be in contact in any other way with the county election officer of the county in which such voter is registered"; and the concurrent resolution be adopted as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 268; HB 2099**, as amended by House Committee; **HB 2323; HB 2325**, as amended by House Committee, be passed.

Committee on **Judiciary** recommends **SB 179** be amended on page 2, in line 3, by striking "is, or appears to be, "; in line 39, by striking all after "(d)"; by striking all in lines 40 through 43;

On page 3, by striking all in lines 1 through 19; in line 20, by striking "(g)"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2154; HB 2330**, as amended by House Committee, be passed and, because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

Also, **SB 217** be amended on page 1, in line 15, by striking all after "requirements"; by striking all in lines 16 and 17; in line 18, by striking all before "for"; also in line 18, before "students" by inserting "certain"; also in line 18, by striking "high school, "; in line 19, before

the period, by inserting: "having been born in or lived or traveled in countries identified by the centers for disease control and prevention as areas where tuberculosis is a health risk"; in line 21, by striking the comma and inserting: "and the student or"; in line 22, by striking "and the faculty and staff"; in line 26, by striking "patient" and inserting "person"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2078**, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Ways and Means** recommends **SB 85** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 85," as follows:

"Substitute for SENATE BILL No. 85

By Committee on Ways and Means

ACT concerning the department of social and rehabilitation services;
relating to a program for breast reconstructive surgery.";

and the substitute bill be passed.

Also, **SB 84** be amended on page 1, in line 29, by striking "2005" and inserting "2006"; also in line 29, by striking "2006" and inserting "2007"; in line 35, by striking "qualifying"; also in line 35, after "patients" by inserting "at 340B participating clinics"; in line 38, by striking all after "at"; in line 39, by striking all before the period and inserting "not-for-profit or publicly-funded primary care clinics, including federally qualified community health centers and federally qualified community health center look-alikes as defined by 42 U.S.C. 330, that provide comprehensive primary health care services, offer sliding fee discounts based upon household income and serve any person regardless of ability to pay. Policies determining patient eligibility due to income or insurance status may be determined by each community but must be clearly documented and posted"; 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 Taddiken in the chair.

On motion of Senator Taddiken the following report was adopted:

Recommended **HB 2034** be passed.

SB 128; HB 2130 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 74 be amended by adoption of the committee amendments, be further amended by motion of Senator Umbarger as amended by Senate Committee, on page 1, in line 27, after the period by inserting "Such personnel policies and procedures shall include a disciplinary and grievance process which provides for the right to appeal and due process procedures."

Senator Betts further amended **SB 74** as amended by Senate Committee, on page 1, following line 40, by inserting:

"(c) Nothing in this act shall affect the representation rights of collective bargaining organizations that represent employees of a state institution of higher education, nor shall the provisions of this act affect any term or condition of any collective bargaining agreement in effect on the effective date of this act.", and **SB 74** be passed as further amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, March 10, 2005.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

