

Journal of the Senate

SIXTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, January 30, 2007—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator Betts was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

To me it's been surprising
Why critics fuss and foam
Because legislators can't get through
And early on go home.

Do they not realize, O God,
We are a hundred and sixty-five
None of whom are just alike,
For different goals we strive.

Some are young and some are old,
Some are white, some black.
Some are women, some are men,
We should be cut some slack!

Some of us are homely,
Others are quite pretty;
Some are from the country,
others from the city.

In case critics haven't noticed, Lord,
Two different parties, we;
And it should not be surprising
We don't always agree.

I know nonpartisanship is great
To more quickly get us through.
But to me it is a miracle
We get through when we do.

Or we could do away
With all us legislators
And appoint someone to be
Some all-powerful dictator.

But that's not going to happen
So the best thing to be done
Is to pray "Not my will, O God,
But thy will be done."

I pray in the Name of Jesus,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 218, An act concerning insurance; providing coverage for colorectal cancer screening; amending K.S.A. 2006 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 219, An act concerning insurance; relating to acquisition of subsidiaries by domestic insurance companies; amending K.S.A. 40-3303 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 220, An act pertaining to insurance companies; relating to corporate structure; amending K.S.A. 40-1004, 40-1006, 40-1201, 40-1508 and 40-1511 and K.S.A. 2006 Supp. 40-502 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 221, An act concerning crimes, punishment and criminal procedure; relating to evidence and videotaping of felony interrogations, by Senator Haley.

SB 222, An act concerning abolition of the death penalty; amending K.S.A. 21-4634, 22-3705 and 22-4210 and K.S.A. 2006 Supp. 21-3105, 21-4619, 21-4635, 21-4706, 22-3405, 22-3717, 22-4505, 22-4506, 22-4902, 38-2255, 38-2271, 38-2312, 38-2365, 39-970, 65-5117 and 75-52,148 and repealing the existing sections; also repealing K.S.A. 21-3439, 21-4627, 21-4629, 21-4630, 21-4631 and 22-3704 and K.S.A. 2006 Supp. 21-4619c, 21-4622, 21-4623 and 21-4624, by Senator Haley.

SB 223, An act relating to motor vehicles; concerning the use of safety belts; amending K.S.A. 8-2503 and 8-2504 and K.S.A. 2006 Supp. 20-350 and repealing the existing sections, by Committee on Transportation.

SB 224, An act regulating traffic; concerning certain right-of-way violations; providing increased penalties; amending K.S.A. 2006 Supp. 8-255 and repealing the existing section, by Committee on Transportation.

SB 225, An act concerning cities and counties; relating to special benefit districts therein; relating to costs of improvements; amending K.S.A. 12-6a19 and repealing the existing section, by Committee on Federal and State Affairs.

SB 226, An act cereal malt beverages; relating to discretion by cities in granting and suspending or revoking a retailer's license; amending K.S.A. 2006 Supp. 41-2703 and 41-2708 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 227, An act concerning sales taxation; relating to exemptions; International Association of Lions Clubs; amending K.S.A. 2006 Supp. 79-3606 and repealing the existing section, by Committee on Assessment and Taxation.

SB 228, An act concerning sales taxation; relating to elimination thereof on remodeling of buildings and facilities; amending K.S.A. 2006 Supp. 79-3603 and repealing the existing section, by Committee on Assessment and Taxation.

SB 229, An act concerning prescription drugs; creating the prescription confidentiality act, by Committee on Public Health and Welfare.

SB 230, An act concerning alcohol or substance abuse; relating to the care and treatment act; definitions; amending K.S.A. 59-29b46 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 213**, **SB 215**; **HB 2044**.

Commerce: **HB 2005**.

Education: **SB 207**, **SB 212**.

Elections and Local Government: **HB 2021**.

Financial Institutions & Insurance: **SB 208**, **SB 209**, **SB 217**.

Judiciary: **SB 206**.

Transportation: **SB 205**, **SB 210**, **SB 211**, **SB 216**.

Utilities: **HB 2032, HB 2034, HB 2039.**
 Ways and Means: **SB 214.**

COMMUNICATIONS FROM STATE OFFICERS

KANSAS PAROLE BOARD

Marilyn Scafe, Chair, submitted the FY 2006 Annual Report per KSA 22-3710.

DEPARTMENT OF TRANSPORTATION

Deb Miller, Secretary, Department of Transportation, submitted the Kansas Making Progress Transportation Performance 2007 Annual Report.

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

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1812—

A RESOLUTION commemorating January 30, 2007, as the 125th anniversary of the birth of President Franklin Delano Roosevelt.

WHEREAS, Franklin Delano Roosevelt was born on January 30, 1882, in Hyde Park, in the Hudson Valley in upstate New York, and was taught at an early age that his family's wealth brought a responsibility of helping those less fortunate and later observing the vast poverty in the cities and rural countryside found it necessary to immerse himself in politics; and

WHEREAS, Franklin Delano Roosevelt, often referred to by his initials FDR, became the 32nd President of the United States in 1933 and was faced with the daunting task of lifting the country out of a crippling depression. He traveled the nation speaking to farmers who had lost all their worldly possessions, meeting with relief organizations over-burdened by the demands of those in need and addressing the fears of people struggling to survive; and

WHEREAS, FDR proclaimed that, "The only thing we have to fear is fear itself" and pledged a new deal for the American people who were "ill-housed, ill-clad and ill-nourished"—a new deal that created jobs that provided the necessary encouragement, hope and self-esteem to assist millions of unemployed workers to recapture their economic worth; and

WHEREAS, FDR emerged as champion of the common people and routinely communicated his reassurance via the radio in his "fireside chats." While popular with the common people, he was also denounced as "traitor to his class" because the changes he proposed reduced the power, status and income of those who profited most from the old order; and

WHEREAS, FDR's most famous legacies include the Social Security system, the regulation of Wall Street and the GI Bill of Rights; and his New Deal programs included the Civilian Conservation Corps, which developed most of our national parks, and the Tennessee Valley Authority, which built dams and power stations in the poverty-stricken South; and

WHEREAS, FDR and his wife Eleanor redefined liberalism for subsequent generations and realigned the Democratic Party based on his New Deal coalition of labor unions; farmers; ethnic, religious and racial minorities; the South; big city machines; and workers on relief; and

WHEREAS, At the age of 39, FDR contracted an illness, at the time believed to be poliomyelitis, which resulted in his total and permanent paralysis from the waist down. He was encouraged by his wife Eleanor to finance a polio rehabilitation center in Warm Springs, Georgia, to help those who could not help themselves. He also helped to found the National Foundation for Infantile Paralysis, later known as the March of Dimes. His leadership in this organization is one reason he is commemorated on the dime; and

WHEREAS, FDR's New Deal began to show promise when the country was thrown into World War II and the same generation that survived the Great Depression was called

upon literally to save the world from destruction. From the factories and farms on the home front, to the battlefields of Europe and the Pacific, they galvanized into an effort that has not been witnessed since; and

WHEREAS, During the war, FDR provided decisive leadership against Nazi Germany, Italy and Japan and made the United States the principal arms supplier and financier of the Allies as it became the “Arsenal of Democracy” and put 16,000,000 American men and women in uniform. He also played a critical role in shaping the post-war world, particularly through the Yalta Conference and the creation of the United Nations; and

WHEREAS, FDR led the country to the impending defeat of Nazi Germany and to within sight of the defeat of Japan when on April 12, 1945, he died of a cerebral hemorrhage at his home in Warm Springs, Georgia. Less than a month later, on May 8, came V-E Day and President Harry Truman dedicated V-E Day to Roosevelt’s memory, paying tribute to his commitment towards ending the war in Europe; and

WHEREAS, Franklin Delano Roosevelt was elected to four terms, serving as President of the United States an unprecedented 12 years, and has consistently been ranked as one of the three greatest presidents in scholarly surveys: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate January 30, 2007, as the 125th anniversary of the birth of President Franklin Delano Roosevelt; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to the Franklin D. Roosevelt Presidential Library and Museum, c/o Cynthia M. Koch, Director, 4079 Albany Post Road, Hyde Park, New York 12538.

On emergency motion of Senator Hensley **SR 1812** was adopted unanimously.

SENATE MINORITY LEADER ANTHONY HENSLEY’S REMARKS ON THE 125TH
ANNIVERSARY OF THE BIRTH OF
PRESIDENT FRANKLIN DELANO ROOSEVELT

The historian Arthur Schlesinger once wrote: “Perhaps no form of government needs great leaders as much as democracy. For democracy is not self-executing. It takes leadership to bring democracy to life. Great democratic leaders are visionaries.

They have an instinct for their nation’s future, a course to steer, a port to seek. Through their capacity for persuasion, they win the consent of their people and call forth democracy’s inner resources.”

Such a leader was Franklin Delano Roosevelt.

Historians and political scientists are unanimous in ranking Roosevelt with Washington and Lincoln as our three greatest American Presidents.

Most historians regard Franklin Roosevelt as the leader most responsible for mobilizing democratic forces first against economic collapse and then against military terror.

It has been written that FDR was the best loved and most hated American President of the 20th century.

He was loved because, though born into a wealthy, aristocratic family, he believed and fought for what he called “The Forgotten Man.” He was loved because he radiated personal charm, joy in his work, and optimism for the future.

His good friend Winston Churchill once said, “Meeting him was like uncorking a bottle of champagne.” And, Churchill knew a thing or two about that.

But FDR was hated, too — hated because he called for change, and the changes he proposed reduced the power and status of those who profited most from the status quo.

Again, Arthur Schlesinger, once wrote the following:

“FDR was not a perfect man. In the service of his objectives, he could be, and often was, devious, manipulative, evasive, underhanded, even ruthless. He relished power and organized, or disorganized, his administration so that conflict among his subordinates would ensure that the big decisions would come to him. He was always fond of saying ‘Judge me by the enemies I have made.’”

As FDR entered the White House in 1933, he inherited a crippled country. He was able to parallel the country's condition with his own struggle with polio that had so crippled him physically.

His New Deal swiftly introduced legislation for social protection, regulation and control. His critics claimed he was putting the country on the road to communism.

But historians write that Roosevelt understood that Social Security, unemployment compensation, public works, securities regulation, rural electrification, farm price supports, reciprocal-trade agreements, minimum wages and maximum hours, guarantees of collective bargaining and all the rest were saving capitalism from itself.

His major concern was for the unemployed and he asked and received from Congress relief for the unemployed and their families. He strongly believed in earning money for the work performed which then raises the morale of the working man.

The Supreme Court was the main obstacle to Roosevelt's programs in his first term by ruling many of them to be an unconstitutional delegation of legislative power to the president. In response, FDR proposed a law allowing him to appoint five new justices.

This "court packing" plan ran into intense opposition from his own party, led by his Vice President, John Nance Garner. Roosevelt's proposal was defeated.

In his second inaugural address, Roosevelt said, and I believe these words best describe his basic political philosophy:

"The test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have too little."

Another one of Roosevelt's quotes, which is one of my favorites was when he was apologizing for some of the mistakes he had made as President. And, while he had made mistakes, he said:

"It is better to have the occasional faults of a government living in the spirit of charity, than the consistent omissions of a government frozen in the ice of its own indifference."

Roosevelt firmly established the United States' leadership role in the world, with pronouncements such as his Four Freedoms speech forming a basis for the active role of our country in World War II and beyond.

In this speech, which he gave to the members of the 77th Congress in 1941, Roosevelt said that they should look forward to a world founded upon four essential human freedoms:

First is the freedom of speech and expression.

Second is the freedom of every person to worship God in his own way.

Third is freedom from want — which means economic conditions that will secure a healthy peacetime life.

The fourth freedom is freedom from fear — which means a world-wide reduction of armaments.

Another of his biographer's wrote: "The world we live in today is Franklin Roosevelt's world. Of the figures who for good or evil dominated the planet 60 years ago, he would be least surprised by the shape of things today. And confident as he was of the power and vitality of democracy, he would welcome the challenges posed by the future. After all, he told us to have no fear at all of the future."

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 19** be passed.

Also, **SCR 1604** be adopted.

Committee on **Education** recommends **SB 22** be amended on page 1, in line 18, by striking "matching" and inserting "competitive"; and the bill be passed as amended.

Also, **SB 23** be amended on page 2, in line 43, by striking "\$2,000" and inserting "\$2,500"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 112** be passed.

Also, **SB 111** be amended on page 3, by striking all in lines 41 through 43;

On page 4, by striking all in lines 1 through 6 and inserting the following:

“(5) (A) Except as provided in paragraph (B), nothing contained in this act shall prevent or be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, at any time to:

(i) The insurance department of this or any other state or country;

(ii) law enforcement officials of this or any other state or agency of the federal government or any other country; or

(iii) officials of any agency of another country.

(B) The commissioner shall not share any information listed in paragraph (A) unless the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this act.”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 51, SB 75** be passed.

Committee on **Transportation** recommends **SB 8** be passed.

Also, **SB 108** 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 11** be amended on page 1, in line 13, by striking “this” and inserting: “the alcoholism treatment facilities licensing”; in line 38, by striking “whose mental or”; in line 39, by striking all before the period and inserting: “who is under the influence of alcohol or drugs or both”;

On page 2, in line 13, by striking “(a) Except as provided in subsection (b), for” and inserting “For”; by striking all in lines 21 through 24; and the bill be passed as amended.

Also, **SB 21** be amended on page 1, by striking all in lines 17 and 18 and inserting in lieu thereof the following:

“(2) “Institution” means a state educational institution as defined by K.S.A. 76-711, and amendments thereto, and the university of Kansas medical center.”;

Also on page 1, in line 20, by striking “state educational”; in line 29, by striking “state educational”; in line 40, by striking “state educational”; in line 43, by striking “state educational”;

On page 2, in line 7, by striking “state educational”; in line 10, by striking “state educational”; in line 18, by striking all after “considered”; in line 19, by striking “education” and inserting “an institution”; in line 22, by striking “a state”; in line 23, by striking all before the comma and inserting “an institution”; 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 Teichman in the chair.

On motion of Senator Teichman the following report was adopted:

Recommended **SB 18** be passed.

SB 13, SB 31, SB 66, SB 69 be amended by adoption of the committee amendments, and the bills be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, January 31, 2007.

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

PAT SAVILLE, *Secretary of the Senate.*

