

# Journal of the Senate

TWENTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, February 7, 2007—2:30 p.m.

The Senate was called to order by Vice President John Vratil.  
The roll was called with forty senators present.

In acknowledgment of Military Appreciation Day, Vice President Vratil introduced as guest chaplain, Army Chaplain, Lieutenant Colonel Richard Quinn, currently stationed at Fort Leavenworth as the Chief of religious Activities and the Senior Chapel Pastor, who delivered the invocation:

Thank you Lord, for past leaders of the state of Kansas who knew the necessity of Your presence and wisdom in each piece of business conducted in this room, and determined everyday to begin in prayer.

We sincerely request Your presence here today and I pray that Your Holy Spirit not be invited only to be ignored or forgotten.

May these leaders choose what is morally correct rather than politically gainful; may they earnestly desire Your interest rather than special interest; may they seek heavenly wisdom and Godly truth rather than earthly praise or profit.

Lord, bring revival to this land. Bring godly men and women to govern us. Protect our Soldiers, Marines, Sailors, and Airmen defending our country, the leaders who lead them and comfort the families awaiting their return. Forgive us for our abuse of freedom which exchanged Your presence in our homes with infidelity, violence and divorce; Your presence in our schools with drugs, gangs, weapons, and teen pregnancies; exchanged Your presence in our towns with empty churches, apathetic neighbors and senseless crime. Protect us from the legislation of a godless moral decay in the name of liberty.

Yes, Lord, I do implore Your presence here today, and I pray You not be silent, nor we be deaf!

In Your holy name I pray, Amen.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 320**, An act concerning the presidential primary; establishing the date thereof; amending K.S.A. 25-4502 and 25-4503 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 321**, AN ACT enacting the Fort Scott/Bourbon county riverfront authority act; creating a riverfront authority and prescribing the powers and duties thereof, by Committee on Federal and State Affairs.

**SB 322**, An act concerning municipal courts; pertaining to the collection of debts owed and restitution, by Committee on Federal and State Affairs.

**SB 323**, An act related to the Kansas health policy authority; rules and regulations on administrative appeals and recovery and reimbursement from third parties; amending K.S.A. 40-2252 and 59-3080 and K.S.A. 2006 Supp. 39-7,120, 39-7,121d, 39-7,121f, 65-6804, 65-

6806, 75-7403, 75-7411, 75-7412, 75-7414, 75-7421, 75-7422 and 77-529 and repealing the existing sections; also repealing K.S.A. 39-719d, by Committee on Public Health and Welfare.

**SB 324**, An act repealing K.S.A. 17-1311a, 21-3727, 47-604, 65-28,107, 66-276 and 75-7b19; concerning certain crimes and punishments, by Committee on Judiciary.

**SB 325**, An act concerning natural gas; relating to gas gathering activities; amending K.S.A. 55-1,102, 55-1,104, 55-1,109, 66-104c and 66-2101 and K.S.A. 2006 Supp. 66-104 and 66-105a and repealing the existing sections, by Committee on Utilities.

**SB 326**, An act concerning the state corporation commission; relating to certain powers and duties related to emergency management; amending K.S.A. 74-616, 74-619 and 74-620 and repealing the existing sections; also repealing K.S.A. 74-618, by Committee on Utilities.

**SB 327**, An act relating to renewable fuel and energy; providing for certain income tax credits relating to renewable fuels, by Senators Bruce, Apple, Betts, Emler, Goodwin, Haley, Jordan, Lynn, McGinn, Ostmeyer, Palmer, Petersen, Pine, Pyle, D. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Wilson and Wysong.

**SB 328**, An act establishing the Kansas state defense force; concerning powers, duties and functions thereof; amending K.S.A. 48-101 and repealing the existing section, by Senator Pyle.

**SB 329**, An act concerning certain school districts; relating to the assessed valuation of certain property therein; amending K.S.A. 2006 Supp. 72-6624 and repealing the existing section; also repealing K.S.A. 2006 Supp. 72-6624a, by Committee on Ways and Means.

**SB 330**, An act concerning veterans; relating to assistance therefor; making and concerning appropriations for the fiscal year ending June 30, 2008, for state agencies; funeral picketing; amending K.S.A. 21-4015 and 39-7,106 and K.S.A. 2006 Supp. 76-729 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 76-729a, by Senators Umbarger and McGinn.

**SB 331**, An act concerning historic preservation; providing for income tax credits; authority for development of historic partnership sites; amending K.S.A. 2006 Supp. 79-32,211 and repealing the existing section, by Senators D. Schmidt, Schodorf and Steineger.

**SB 332**, An act concerning the Johnson county park and recreation district; amending K.S.A. 2006 Supp. 19-2874 and repealing the existing section, by Senators Brownlee, Allen, Jordan, Lynn, Vratil, Wilson and Wysong.

**SB 333**, An act concerning public building construction contracts; enacting the Kansas fairness in public building construction contract act; amending K.S.A. 75-6402 and repealing the existing section, by Committee on Commerce.

**SB 334**, An act concerning sales taxation; relating to definitions; exemptions; exemption certificates; errors in collection, relief of liability; jurisdiction and rate database; amending K.S.A. 2006 Supp. 79-3602, 79-3603, 79-3606, 79-3609, 79-3651, 79-3667, 79-3668, 79-3669 and 79-3673 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 79-3671 and 79-3691, by Committee on Assessment and Taxation.

**SB 335**, An act concerning the Kansas public employees retirement system; relating to investment standards; prohibited investments; divestment, conditions and procedures, by Senators Betts and Haley and Allen, Barone, Brownlee, Bruce, Francisco, Gilstrap, Hensley, Huelskamp, Journey, Kelly, Lee, Lynn, McGinn, Ostmeyer, Palmer, Petersen, Pyle, D. Schmidt, Schodorf, Steineger and Wysong.

**SB 336**, An act concerning taxation; relating to the homestead property tax refund act; maximum refund; indexing; amending K.S.A. 79-4509 and repealing the existing section, by Senator Betts.

**SB 337**, An act concerning the minimum wage and maximum hours law; amending K.S.A. 44-1203 and repealing the existing section, by Senators Francisco and Betts and Barone, Goodwin, Haley, Hensley, Reitz, Steineger and Wysong.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **SB 303**.

Assessment and Taxation: **SB 298, SB 305, SB 312**.

Commerce: **SB 314, SB 316.**  
 Education: **SB 315.**  
 Elections and Local Government: **SB 310.**  
 Federal and State Affairs: **SB 317, SB 319.**  
 Financial Institutions & Insurance: **SB 299.**  
 Health Care Strategies: **SB 309**  
 Judiciary: **SB 293, SB 296, SB 301, SB 306, SB 307, SB 308, SB 313; HB 2161.**  
 Public Health and Welfare: **SB 300, SB 302.**  
 Transportation: **SB 294, SB 295.**  
 Utilities: **SB 297.**  
 Ways and Means: **SB 304, SB 311, SB 318.**

#### CHANGE OF REFERENCE

The Vice President withdrew **HB 2037, HB 2038** from the Committee on Utilities, and referred the bills to the Committee on Assessment and Taxation.

#### COMMUNICATIONS FROM STATE OFFICERS

January 2007

Don Jordan, Acting Secretary, Social and Rehabilitation Services, submitted the 2007-2008 Business Plan.

February 5, 2007

#### KANSAS CRIMINAL JUSTICE COORDINATING COUNCIL Statewide Automated Victim Information and Notification Task Group

Roger Werholtz, Chair, Kansas Criminal Justice Coordinating Council, submitted a report addressing the historical and current practice of victim notification in our state as well as the impact of SB 487.

The Vice 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.

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2036; Substitute HB 2067; HB 2112, HB 2181, HB 2182, HB 2303.**

Also, adoption of **HCR 5009.**

Also, passage of **SB 33.**

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2036; Substitute HB 2067; HB 2112, HB 2181, HB 2182, HB 2303; HCR 5009** were thereupon introduced and read by title.

#### REFERRED TO GENERAL ORDERS

The Vice President referred **HB 2303** and **HCR 5009** to the Calendar under the heading of General Orders.

#### REPORT OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 83** be passed.

Committee on **Financial Institutions and Insurance** recommends **SB 137, SB 154, SB 197** be passed.

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

By the Governor:

State Bank Commissioner: K.S.A. 2006 Supp. 75-1304

John T. Thull, serves at the pleasure of the Governor

Committee on **Judiciary** recommends **SB 73, SB 76, SB 85** be passed.

Also, **SB 45** be amended on page 1, in line 14, by striking "In every" and inserting "(a) Except as provided in subsection (b), in every judicial district, the supreme court shall designate a district judge as the chief judge of such district.

(b) In the 18th”;

Also on page 1, in line 21, before “The” by inserting: “(c)”; and the bill be passed as amended.

**SB 81** be amended on page 1, in line 13, after “an” by inserting “original”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 176** be amended on page 3, in line 4, by striking “which” and inserting “who”;

On page 5, in line 11, after “dentist” by inserting “except that topically applied local anaesthesia, as defined by the board, may be administered under the general supervision of a licensed dentist”; in line 12, after “anaesthesia” by inserting “regardless of the type”; in line 33, after “disability” by inserting “, but not within the past three years,”; in line 35, by striking “and”, where it appears for the second time, and inserting “or”; in line 39, after “care” by inserting “within the last 12 months”; also in line 39, by striking “dental” and inserting “the”; also in line 39, by striking “within the past three years and has” and inserting “of dentists licensed in the state of Kansas and provides the board with”; in line 40, by striking “a dentist” and inserting “one of the supervising dentists”; and the bill be passed as amended.

Committee on **Utilities** recommends **SB 49** be passed.

Committee on **Ways and Means** recommends **SB 157**, **SB 165** be passed.

Also, **SB 11**, as amended by Senate Committee on Ways and Means as reported in the Journal of the Senate on January 30, 2007, be further amended on page 1, in line 14, preceding “Section” by inserting “New”;

On page 2, in line 16, preceding “Sec.” by inserting “New”; in line 28, preceding “Sec.” by inserting “New”; following line 31, by inserting the following:

“Sec. 14. K.S.A. 59-29b46 is hereby amended to read as follows: 59-29b46. When used in the care and treatment act for persons with an alcohol or substance abuse problem:

(a) “Discharge” means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 59-29b50 and amendments thereto or by an order of a court issued pursuant to K.S.A. 59-29b73 and amendments thereto.

(b) “Head of a treatment facility” means the administrative director of a treatment facility or such person’s designee.

(c) “Law enforcement officer” shall have the meaning ascribed to it in K.S.A. 22-2202 and amendments thereto.

(d) “Other facility for care or treatment” means any mental health clinic, medical care facility, nursing home, the detox units at either Osawatomie state hospital or Larned state hospital, any physician or any other institution or individual authorized or licensed by law to give care or treatment to any person.

(e) “Patient” means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) “Voluntary patient” means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 59-29b49 and amendments thereto.

(2) “Proposed patient” means a person for whom a petition pursuant to K.S.A. 59-29b52 or 59-29b57 and amendments thereto has been filed.

(3) “Involuntary patient” means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to subsection (b) or (c) of K.S.A. 59-29b54 and amendments thereto.

(f) “Person with an alcohol or substance abuse problem” means a person who: (1) Lacks self-control as to the use of alcoholic beverages or any substance as defined in subsection (k); or

(2) uses alcoholic beverages or any substance as defined in subsection (k) to the extent that the person’s health may be substantially impaired or endangered without treatment.

(g) (1) “Person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment” means a person with an alcohol or substance abuse problem, as defined in subsection (f), who also is incapacitated by alcohol or any substance and is likely to cause harm to self or others.

(2) “Incapacitated by alcohol or any substance” means that the person, as the result of the use of alcohol or any substance as defined in subsection (k), has impaired judgment

resulting in the person: (A) Being incapable of realizing and making a rational decision with respect to the need for treatment; or

(B) lacking sufficient understanding or capability to make or communicate responsible decisions concerning either the person's well-being or estate.

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's use of alcohol or any substance: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or

(B) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person's ability to function on the person's own.

(h) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

(i) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302 and amendments thereto.

(j) "State certified alcohol and drug abuse counselor" means a person approved by the secretary of social and rehabilitation services to perform assessments using the American Society of Addiction Medicine criteria and employed at a state funded and designated assessment center.

(k) "Substance" means: (1) The same as the term "controlled substance" as defined in K.S.A. 65-4101 and amendments thereto; or

(2) fluorocarbons, toluene or volatile hydrocarbon solvents.

(l) "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

(m) (1) "Treatment facility" means a *treatment program*, public or private treatment facility, or any facility of the United States government available to treat a person for an alcohol or other substance abuse problem, but such term shall not include a licensed medical care facility, a licensed adult care home, a facility licensed under K.S.A. 75-3307b and amendments thereto, a community-based alcohol and drug safety action program certified under K.S.A. 8-1008 and amendments thereto, and performing only those functions for which the program is certified to perform under K.S.A. 8-1008 and amendments thereto, or a ~~psychologist~~ *psychologist professional licensed by the behavioral sciences regulatory board to diagnose and treat mental disorders at the independent level* or a physician, who may treat in the usual course of the ~~psychologist's~~ *behavioral sciences regulatory board licensee's* or physician's professional practice individuals incapacitated by alcohol or other substances, but who are not ~~exclusively~~ *primarily* engaged in the usual course of the individual's professional practice in treating such individuals, or any state institution, even if detoxification services may have been obtained at such institution.

(2) "Private treatment facility" means a private agency providing facilities for the care and treatment or lodging of persons with either an alcohol or other substance abuse problem and meeting the standards prescribed in either K.S.A. 65-4013 or 65-4603 and amendments thereto, and licensed under either K.S.A. 65-4014 or 65-4607 and amendments thereto.

(3) "Public treatment facility" means a treatment facility owned and operated by any political subdivision of the state of Kansas and licensed under either K.S.A. 65-4014 or 65-4603 and amendments thereto, as an appropriate place for the care and treatment or lodging of persons with an alcohol or other substance abuse problem.

(n) The terms defined in K.S.A. 59-3051 and amendments thereto shall have the meanings provided by that section.

Sec. 5. K.S.A. 59-29b46 is hereby repealed.";

And by renumbering the remaining section accordingly;  
On page 1, in the title, in line 11, preceding the period, by inserting “; amending K.S.A. 59-29b46 and repealing the existing section”; and the bill be passed as amended.

**REPORT ON ENGROSSED BILLS**

**SB 67, SB 105, SB 109; SCR 1606** reported correctly engrossed February 7, 2007.

**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 Brownlee in the chair.

On motion of Senator Brownlee the following report was adopted:

Recommended **SB 104** be passed.

**SB 22, SB 131** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 135** be amended by adoption of the committee amendments and be further amended by motion of Senator Lee as amended by Senate Committee, on page 2, in line 24, before the period by inserting “except that if the candidate is seeking election to a state legislative office, the county may be located anywhere within the legislative district” and **SB 135** be passed as further amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, February 8, 2007.

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

PAT SAVILLE, *Secretary of the Senate.*

