

Journal of the Senate

SIXTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, May 1, 2007—2:30 p.m.

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

Heavenly Father,

One of the first things we discovered after we got here, if we had not already learned it, is that regardless of what we do, some people, maybe a lot of people, are going to be upset.

Some will say we did too much,
Others . . . “Not enough”.
Some will say we’re soft on crime,
Others say, “Too tough”.

Some will say we spent too much,
Some will say, “Not so”.
“They spent too little on some things,
Although they had the dough.”

Some will say we quit too soon,
But from others we will hear
How much it costs taxpayers
The extra days we’re here.

Just help us, Lord, to buckle down
And do the best we can.
After all they crucified
The only perfect Man.

And I pray in His Name,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:
Ways and Means: **SB 395**.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **Substitute for Senate Substitute HB 2237**.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Bruce as a member of the Conference Committee on **H Sub for SB 14** to replace Senator Allen.

ACTION ON VETO MESSAGE

President Morris announced the Governor's objection to **SB 55**, An act relating to the department of corrections; concerning work release and job training programs; disposition of compensation; amending K.S.A. 75-5268 and repealing the existing section, having been read on April 25, 2007, the time has arrived for reconsideration.

No motion having been offered to reconsider, the Governor's veto of **SB 55** was hereby declared sustained.

REPORT ON ENGROSSED BILLS

H Sub for SB 21 reported correctly engrossed April 28, 2007.

SB 30; H Sub for SB 35 reported correctly engrossed April 30, 2007.

Also, **SB 68, SB 138, SB 166, SB 204, SB 351** reported correctly re-engrossed April 30, 2007.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

MESSAGE FROM THE HOUSE

Announcing adoption of **HCR 5024**.

The House adopts the conference committee report on **House Substitute for SB 14**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5024 was thereupon introduced and read by title.

CHANGE OF APPOINTMENT REFERRAL

The President announced he was withdrawing the appointment of Nan Porter, Crime Victims Compensation Board, from the Committee on Judiciary and referring it to the Committee on Confirmation Oversight.

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 as House Substitute for Senate Bill No. 14, as follows:

On page 1, in line 14, by striking "Subject" and inserting "On and after July 1, 2007, subject";

On page 2, in line 40, preceding "K.S.A." by inserting "On and after July 1, 2007,";

On page 3, in line 3, after "20%" by inserting "of"; in line 4, after "time" by inserting "for drug severity level 3 or 4 or nondrug severity level 7 through 10 crimes"; in line 14, by striking "21-3404" and inserting "21-3504"; in line 21, preceding "K.S.A." by inserting "On and after July 1, 2007,"; in line 27, after "of" by inserting "good"; in line 30, after "for a" by inserting "drug severity level 3 or 4 or a nondrug severity level 7 through 10";

On page 5, in line 1, preceding "K.S.A." by inserting "On and after July 1, 2007,";

On page 13, following line 39, by inserting the following:

"Sec. 5. On and after July 1, 2007, K.S.A. 75-5268 is hereby amended to read as follows: 75-5268. (1) Any inmate who is allowed to participate in such paid employment or in such job training or paid employment for which a subsistence allowance is paid in connection with such job training shall pay over to the secretary or the designated representative of the secretary all moneys received from such paid employment or job training except that, pursuant to rules and regulations adopted by the secretary of corrections, the inmate shall retain a stipulated reasonable amount of the money as the secretary or the designated representative of the secretary deems necessary for expenses connected with the employment or job training. The balance of the moneys paid to the secretary or the designated representative of the secretary shall be disbursed for the following purposes:

(a) A designated minimum amount of that money paid to the secretary shall be returned to the state general fund or to the political subdivision, federal government or community-based center for such inmate's food and lodging or, if the inmate is participating in a private industry program other than work release, the minimum amount collected shall be deposited to the correctional industries fund;

(b) transportation to and from the place of employment at the rate allowed in K.S.A. 75-3203 and amendments thereto;

(c) if any of the dependents of the inmate are receiving public assistance, a reasonable percentage of the inmate's net pay after deduction of the above expenses shall be forwarded to the court which ordered support for the dependent or, if there is no order, to the secretary of social and rehabilitation services;

(d) a reasonable percentage of the inmate's net pay after deduction of the above expenses shall be disbursed for the payment, either in full or ratable, of the inmate's obligations if such obligations relate to the care and support of the defendant's immediate family and have been reduced to judgment;

(e) after deduction of the above amounts, payment of a reasonable amount for costs assessed to the inmate pursuant to the code of civil procedure;

(f) to the clerk of the district court in which the crime occurred, payment of a reasonable amount pursuant to an order ~~of restitution for all costs, fines, fees and restitution assessed.~~ *Such payment shall be distributed in the following order of priority: Restitution, costs, fines and fees;*

(g) payment of a reasonable amount into a savings account for disbursement to the inmate upon release from custody;

(h) after deduction of the above amounts, a reasonable percentage of the inmate's net pay shall be disbursed for the payment, either in full or ratable, of the inmate's other obligations acknowledged by the inmate in writing, as authorized by the secretary; and

(i) the balance, if any, shall be credited to the inmate's account and shall be made available to the inmate in such manner and for such purposes as are authorized by the secretary.”;

And by renumbering the remaining sections accordingly;

Also on page 13, in line 40, preceding “K.S.A.” by inserting “On and after July 1, 2007.”;

On page 14, in line 10, preceding “K.S.A.” by inserting “On and after July 1, 2007.”;

On page 16, following line 9, by inserting the following:

“New Sec. 8. (a) There is hereby created the Kansas criminal code recodification commission.

(b) The commission shall re-codify the Kansas criminal code by:

(1) Reviewing the American law institute model penal code, the criminal codes of other states, and other criminal law study resources, and making recommendations concerning proposed modifications, amendments and additions to the code.

(2) Analyzing and reviewing all criminal statutes and making recommendations for legislation that would ensure that the sentences are appropriate and proportionate to other sentences imposed for criminal offenses, with particular emphasis on the sentencing guidelines grid for drug crimes.

(3) Reviewing and determining the severity of the Kansas sentencing policies in relation to other states and review possible adjustments which may relieve or eliminate prison capacity issues in Kansas.

(4) Studying and making recommendations concerning the statutory definitions of crimes and criminal penalties and evaluate whether certain criminal conduct may be combined into one criminal statute, thus alleviating any potential problems of having two statutes prohibiting the same criminal conduct.

(5) Studying and making revisions to clarify the code to facilitate just and expedient resolution of criminal prosecutions and resolve or prevent statutory conflicts.

(c) The commission shall be made up of the following members:

(1) One legislator who is a member of the senate judiciary committee shall be appointed by the president of the senate;

(2) one legislator who is a member of the senate judiciary committee shall be appointed by the minority leader of the senate;

- (3) one legislator who is a member of the house of representatives judiciary committee shall be appointed by the speaker of the house of representatives;
- (4) one legislator who is a member of the house of representatives judiciary committee shall be appointed by the minority leader of the house of representatives;
- (5) one member of the judicial branch appointed by the chief justice of the supreme court;
- (6) one member of the law enforcement community appointed by the attorney general;
- (7) one defense attorney or public defender appointed by the governor;
- (8) one county attorney or district attorney appointed by the Kansas county and district attorney association;
- (9) a professor of law from the university of Kansas school of law and a professor from Washburn university school of law appointed by the deans of such schools;
- (10) two members of the Kansas judicial council criminal law advisory committee appointed by the criminal law advisory committee;
- (11) one district court judge appointed by the Kansas district judges association;
- (12) a member of the Kansas sentencing commission appointed by the Kansas sentencing commission;
- (13) the attorney general or the attorney general's designee; and
- (14) the secretary of corrections or the secretary's designee.
- (d) The members of the commission shall elect officers from among its members necessary to discharge its duties.
- (e) Each member of the commission shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the commission shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on commission activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees, except that the legislative members shall receive compensation as provided in K.S.A. 75-3212, and amendments thereto.
- (f) The commission shall have the authority to:
- (1) Organize and appoint such task forces or subcommittees as may be deemed necessary to discharge such commission's duties;
 - (2) accept grants, gifts and other appropriation of funds;
 - (3) hire and employ staff persons; and
 - (4) contract for the services of persons, organizations and agencies necessary for the discharge of the commission's duties.
- (g) The commission shall work with the department of corrections and the Kansas sentencing commission and review studies and findings of the Kansas sentencing commission concerning proportionality of sentencing.
- (h) The commission shall prepare and submit an interim report to the legislature on or before February 1, 2008 and February 1, 2009. A final report and recommendations shall be submitted to the legislature on or before January 11, 2010.
- (i) The staff of the office of the revisor of statutes and legislative research department shall provide such assistance as may be requested by the commission and to the extent authorized by the legislative coordinating council.
- (j) The provisions of this section shall expire on July 1, 2010.”;
- And by renumbering the remaining sections accordingly;
- Also on page 16, in line 10, preceding “K.S.A.” by inserting “On and after July 1, 2007.”; also in line 10, preceding “75-5293” by inserting “75-5268.”; in line 13, by striking “statute book” and inserting “Kansas register”
- In the title, in line 9, by striking “corrections” and inserting “the department of corrections and the criminal code recodification commission”; preceding “75-5293” by inserting “75-5268.”;

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

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

JOHN VRATIL
 TERRY BRUCE
 GRETA GOODWIN
Conferees on part of Senate

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

On roll call, the vote was: Yeas 30, Nays 6, Present and Passing 0, Absent or Not Voting 4.

Yeas: Barnett, Barone, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Palmer, Petersen, Pine, Reitz, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Apple, Bruce, Huelskamp, Ostmeyer, Pyle, Schmidt D.

Absent or Not Voting: Allen, Haley, Steineger, Wysong.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I now vote Aye on **H Sub for SB 14**. The conference committee heard the Kansas Senate and modified the provisions regarding good time credit. The previous version was too broad in this early release provision. The current version limits this grant of early release to mostly non-violent offenders and low lever offenders of violent crime which do not have a history of these offenses. The enhancement of supervision of K.D.O.C. prisoners on conditional release will improve public safety and reduce the pressure on the K.D.O.C. to provide adequate bed space for the flow of new prisoners as New laws take effect.—PHIL JOURNEY

Senators Lynn, McGinn, Petersen and Teichman request the record to show they concur with the "Explanation of Vote" offered by Senator Journey on **H Sub for SB 14**.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Wednesday, May 2, 2007.

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

PAT SAVILLE, *Secretary of the Senate*.

