

Journal of the Senate

TWELFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, January 30, 2008—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Why do people get angry with God?
I find more often than not;
They prayed for something to ease their pain,
And nothing is what they got.

So they say, "If God is like that,
I don't need Him at all."
If He won't help me when I'm in need,
There's no use on Him to call."

They've yet to find out
That those of us who believe,
Don't always get what we pray for,
Even Paul did not always receive. (II Corinth. 12:7-10)

The truth is You know what we need
Far better than we'll ever know,
And like children who do not get what they want,
We have to wait till we grow!

In fact, those who suffer the most
Get closer to You through the stress;
Much closer than when we get all we want,
But need to endure the test.

Thank You, Lord, for showing us how
To draw closer and closer to You.
It's not when everything's going our way,
But when we are tested through and through.

So remind us to read the experience of Paul
In his Corinthian letter,
We'll discover why sometimes you just say, "No,"
And we'll get to know You much better!

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 515, An act concerning the environment; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 65-3008b, 65-3012 and 66-104d and K.S.A. 2007 Supp. 65-3005, 65-3008a and 66-1,184 and repealing the existing sections, by Committee on Utilities.

SB 516, An act relating to marriage; designating new surname; amending K.S.A. 23-133 and repealing the existing section, by Committee on Judiciary.

SB 517, An act relating to the department of corrections; concerning work projects involving the repair of real estate; amending K.S.A. 2007 Supp. 75-5275 and repealing the existing section, by Committee on Judiciary.

SB 518, An act enacting the DeSoto/Johnson county riverfront authority act; creating a riverfront authority and prescribing the powers and duties thereof, by Committee on Elections and Local Government.

SB 519, An act concerning mail ballot elections; pertaining to mailing of ballots to inactive voters in local question submitted elections conducted by mail ballot; amending K.S.A. 25-433 and repealing the existing section, by Committee on Elections and Local Government.

SB 520, An act concerning elections; pertaining to the order in which candidates names appear on the ballot; amending K.S.A. 25-212 and 25-610 and repealing the existing sections, by Committee on Elections and Local Government.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **SB 502**.

Assessment and Taxation: **SB 497 (Jointly)**, **SB 510**.

Commerce: **SB 497 (Jointly)**, **SB 501**.

Education: **SB 507**.

Elections and Local Government: **SB 504**, **SB 505**, **SB 506**.

Federal and State Affairs: **SB 500**, **SB 512**, **SB 513**, **SB 514**.

Financial Institutions & Insurance: **SB 498**, **SB 499**, **SB 511**.

Judiciary: **SB 493**, **SB 494**, **SB 495**, **SB 496**.

Public Health and Welfare: **SB 503**.

Transportation: **SB 509**.

Ways and Means: **SB 508**.

FINAL ACTION ON CONSENT CALENDAR

HB 2587 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

HB 2587, An act creating the wildlife and parks nonrestricted fund, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The bill passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

Sub SB 209, An act pertaining to accident and sickness insurance; relating to rate and form filings; amending K.S.A. 40-2215 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The substitute bill passed.

SB 379, An act concerning construction contracts; relating to indemnification provisions and additional insured parties; amending K.S.A. 16-121 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Huelskamp, Palmer, Pyle, Wagle.

Present and Passing: Donovan, Journey.

The bill passed, as amended.

SB 410, An act concerning juvenile corrections; amending K.S.A. 76-2101, 76-2125 and 76-2128 and K.S.A. 2007 Supp. 38-2302, 76-2101a, 76-3201 and 76-3202 and repealing the existing sections; also repealing K.S.A. 76-2111, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The bill passed, as amended.

SB 417, An act concerning rural housing; creating the housing development grant program; exempting certain cities from certain requirements for rural housing incentive district financing; amending K.S.A. 12-5246 and K.S.A. 2007 Supp. 12-5242 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Haley, Huelskamp, Ostmeyer, Palmer, Pyle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I change my "Pass" to "No," *reluctantly*, on **SB 417**; concerning Rural Housing & Development of Housing Development Grants . . . As a Kansan, and as a Statesperson, after flooding, tornadoes, "Acts of God" . . . our minds and our hearts go out to our fellow Kansans in these times of unanticipated, unpredictable tragedy. And, since F.E.M.A. is never enough . . . so then too should our state's wallet. But creating a new program for housing grants *through 2015* for disasters from *2007* without funding which has even been deemed constitutional (gambling) much less "collected" is wholly irresponsible; ridiculously reckless; fiscally irresponsible. Hopefully, when the House restores the basic mission of the bill, I can vote "aye." — DAVID HALEY

MR. PRESIDENT: While I am supportive of the provisions of **SB 417** that assists Kansans in recovering from severe natural disasters, this bill also authorizes a new program much broader in scope. This new statewide program is unfunded and deserves close review before any authorization. — DENNIS PYLE, TIM HUELSKAMP, PEGGY PALMER

SB 425, An act concerning certain municipalities; relating to the investment of public moneys; amending K.S.A. 2007 Supp. 12-1677b and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Huelskamp, Journey, Pyle.

The bill passed.

SB 447, An act concerning agriculture; relating to the agricultural and specialty chemical remediation act; increasing reimbursement limits; extending deposit loan program; amending K.S.A. 2-3708, 2-3713 and 2-3714 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The bill passed.

SCR 1616, A Concurrent Resolution requesting the creation of a task force to study the design and implementation of an electronic motor vehicle financial security verification system for real time verification of compliance with the financial security requirements of the Kansas automobile injury reparations act, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The resolution was adopted, as amended.

HB 2186, An act concerning adoptions; relating to advertising and placing children; prescribing certain restrictions and requirements; relating to birth certificates; amending K.S.A. 59-2123 and 65-2423 and repealing the existing sections, was considered on final action.

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

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

Nays: Palmer.

The bill passed, as amended.

HB 2491, An act concerning the transfer of certain balances in the motor carrier license fees fund to the state highway fund; amending K.S.A. 66-1,142 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 444** be amended on page 1, in line 13, before "Section" by inserting "New"; after line 23, by inserting the following:

"Sec. 2. K.S.A. 2007 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request

for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of

taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) all property exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*; (17) from and after July 1, 1998, motor vehicles exempted from taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto; (18) commercial and industrial machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2007 Supp. 79-223, and amendments thereto; ~~and~~ (19) telecommunications machinery and equipment and railroad machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2007 Supp. 79-224, and amendments thereto; *and* (20) *property exempted from property or ad valorem taxation by section 1, and amendments thereto.*

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.

Sec. 3. K.S.A. 2007 Supp. 79-213 is hereby repealed.;

And by renumbering section 2 as section 4;

Also on page 1, in the title, in line 10, after "classified" by inserting "; amending K.S.A. 2007 Supp. 79-213 and repealing the existing section"; and the bill be passed as amended. Committee on **Judiciary** recommends **SB 419** be passed.

Also, **SB 418** be amended on page 3, in line 43, preceding "six" by inserting "November 1, not more than";

On page 4, in line 1, preceding the period, by inserting “and develop bed impacts regarding legislation that may affect juvenile correctional facility population”; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, January 31, 2008.

HELEN MORELAND, CHARLENE BAILEY, PAT MATZEK, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

