

Journal of the Senate

THIRTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 26, 2008—2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with thirty-eight senators present.
Senators Hensley and Morris were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Jesus said, "If you do good to those who are good to you, what credit is that to You? Even sinners do that." (Luke 6:33 NIV)

We are a busy people, Lord,
But help us do the little things;
Help us greet all those who serve,
As if they all were kings.

Remind us, Lord:
A cheerful greeting is a prize
To people we don't know:
The elevator operator,
And the workers down below.

Remind us, Lord:
To greet the people in uniform,
And the men who man the doors.
Say "Hello" to children
And the folks who mop the floors.

Remind us, Lord:
To compliment the secretaries,
And those behind the scenes.
To smile at all the pages,
And those who keep the State House clean.

Remind us, Lord:
To not forget all staff members,
And others we haven't mentioned.
We can be a blessing
When we show them some attention.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 653, An act concerning the department of health and environment; relating to maternal and child health; making and concerning appropriations for the fiscal years ending June 30, 2009, and June 30, 2010, by Committee on Ways and Means.

SB 654, An act establishing the nursing faculty and supplies grant program; making appropriations for the fiscal year ending June 30, 2008, by Committee on Ways and Means.

SB 655, An act making and concerning appropriations for the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

SB 656, An act concerning long-term care services; relating to home and community based services, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **HB 2660**.

Commerce: **HB 2771**.

Elections and Local Government: **HB 2628**.

Financial Institutions & Insurance: **HB 2688**.

Judiciary: **HB 2726**.

Natural Resources: **HB 2892**.

Public Health and Welfare: **Sub HB 2207**; **HB 2781**.

Transportation: **HB 2691**, **HB 2704**.

Utilities: **HB 2681**.

Ways and Means: **SB 649**, **SB 650**, **SB 651**, **SB 652**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2642**, **HB 2644**, **HB 2758**, **HB 2768**, **HB 2816**, **HB 2824**.

Also, passage of **SB 447**.

The House accedes to the request of the Senate for a conference on **Substitute for SB 89** and has appointed Representatives Faber, Knox and Svaty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 359** and has appointed Representatives Schwartz, Tafanelli and Feuerborn as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2642, **HB 2644**, **HB 2758**, **HB 2768**, **HB 2816**, **HB 2824** were thereupon introduced and read by title.

CHANGE OF CONFERENCE

The Vice President announced the appointment of Senator V. Schmidt as a member of the Conference Committee on **H Sub for SB 359** to replace Senator Emler.

REPORT ON ENROLLED BILLS

SR 1814, **SR 1815**, **SR 1816** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 26, 2008.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 558** be passed.

Committee on **Assessment and Taxation** recommends **SB 383** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 383," as follows:

"Substitute for SENATE BILL No. 383

By Committee on Assessment and Taxation

"AN ACT concerning property taxation; relating to exemptions; certain housing for the elderly or persons with disabilities or low income housing; amending K.S.A. 2007 Supp. 79-201z and repealing the existing section.";

and the substitute bill be passed.

Committee on **Commerce** recommends **SB 579** be passed.

Also, **SB 453** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 453," as follows:

"Substitute for SENATE BILL No. 453

By Committee on Commerce

"AN ACT concerning rural development; establishing the Kansas commission on rural policy; establishing the division of rural development within the department of commerce."; and the substitute bill be passed.

Committee on **Education** recommends **SB 407** be passed.

Also, **SB 399** be amended on page 4, in line 11, by striking "seven" and inserting "six";

On page 6, by striking all in lines 30 through 43;

On page 7, by striking all in lines 1 through 25 and inserting the following:

"(g) No child shall be required to attend kindergarten if the child is a member of a religious denomination which objects to the attendance of kindergarten and if a written statement signed by a parent or a person acting as parent of the child is filed with the board of education of the school district in which the child resides requesting that the child not be required to attend kindergarten and stating the reason for the request."; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **SB 562** be amended on page 2, in line 34, before "its" by inserting "January 1, 2010, and"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 560** be amended on page 2, in line 16, by striking "means" and inserting "includes"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 581, SB 582** be passed.

Also, **SB 565** be amended on page 2, in line 7, by striking all following "conduct"; in line 8, by striking all preceding the period and inserting "a check of the internet site maintained by the Kansas bureau of investigation concerning registered offenders prior to employing such persons. The board is authorized to use such information to determine such person's fitness for employment. The state fair board or any employees thereof, shall not be liable for civil damages to any person refused employment or discharged from employment by reason of the board complying with this paragraph"; and the bill be passed as amended.

SB 588 be amended on page 1, in line 15, following "institution" by inserting "or care and treatment facility"; in line 17, following "institution" by inserting "or care and treatment facility"; in line 18, following "institution" by inserting "or care and treatment facility"; in line 19, following "institution" by inserting "or care and treatment facility"; in line 20, following "tution" by inserting "or care and treatment facility"; in line 21, following "institution" by inserting "or care and treatment facility"; in line 23, by striking "state security"; in line 24, by striking "hospital."; in line 25, by striking the comma, where it appears for the second time, and inserting "or"; also in line 25, by striking "or" where it appears for the last time; by striking all in lines 26 and 27; in line 28, by striking "ments thereto"; following line 28, by inserting the following:

"(c) For the purposes of this section "care and treatment facility" means the state security hospital provided for under K.S.A. 76-1305 et seq., and amendments thereto, and a facility operated by the department of social and rehabilitation services for the purposes provided for under K.S.A. 59-29a02 et seq., and amendments thereto.;"

And by relettering the remaining subsections accordingly;

Also on page 1, in line 29, following "institution" by inserting "or care and treatment facility"; following line 35, by inserting the following:

"(3) Traffic in any contraband, as defined by rules and regulations adopted by the secretary of social and rehabilitation services, in a care and treatment facility by an employee of a care and treatment facility is a severity level 5, nonperson felony.;"

Also on page 1, in line 36, by striking "(c)" and inserting "(d)"; in line 37, following "institution" by inserting "or care and treatment facility";

In the title, in line 10, following "institution" by inserting "or care and treatment facility"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2622** be passed.

Also, **HB 2071**, as amended by House Committee of the Whole, be amended on page 2, in line 1, by striking "281" and inserting "77"; in line 38, by striking "Garden City" and inserting "Jetmore"; in line 39, by striking "War on Terrorism" and inserting "Operation Iraqi Freedom"; in line 41, by striking "War on Terrorism" and inserting "Operation Iraqi Freedom";

On page 3, after line 5, by inserting the following:

"Sec. 7. K-156 highway from the west city limits of Jetmore then west on K-156 highway to the eastern city limits of Garden City is hereby designated the Operation Enduring Freedom veterans memorial highway. The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the highway is the Operation Enduring Freedom veterans memorial highway, except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs and an additional 50% of the initial cost to defray future maintenance or replacement costs of such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.";

And by renumbering the remaining section accordingly; and the bill be passed as amended.

Committee on **Utilities** recommends **SB 570** be amended on page 1, in line 40, by striking "2007 Supp."; in line 41, after "amendments thereto," by inserting "unless a transaction subject to this section is solely between such carrier and a local exchange carrier that has elected rate of return regulation pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto, operating wholly within this state,";

On page 2, in line 8, by striking "2007 Supp."; in line 9, before the period, by inserting "unless a transaction subject to this section is solely between such carrier and a local exchange carrier that has elected rate of return regulation pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto, operating wholly within this state"; in line 43, after "be subject to" by inserting "the";

On page 3, in line 1, after "thereto" by inserting "except as otherwise provided in such sections"; and the bill be passed as amended.

Also, **SB 580** be amended on page 1, in line 31, by striking all after "efficiency."; by striking all in lines 32 through 34 and inserting "Subject to the provisions of federal law, for the fiscal year ending June 30, 2009, and each ensuing fiscal year, the head of the agency receiving the low income energy assistance block grant shall transfer 15% of any emergency or supplemental federal appropriations for such block grant to the weatherization assistance program account."; and the bill be passed as amended.

SB 614 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 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 Barnett in the Chair.

On motion of Senator Barnett the following report was adopted:

Recommended **SB 403** be passed. **SB 414, SB 475, SB 512, SB 546, SB 575** be amended by adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Vratil to amend **SB 575** failed and the following amendment was rejected: on page 26, by deleting the sentence which begins in line 26 and ends in line 29.

SB 574 be amended by adoption of the committee amendments and be further amended by motion of Senator Wysong, as amended by Senate Committee, on page 4, after line 41, by inserting the following:

"Sec. 7. K.S.A. 19-3614a is hereby amended to read as follows: 19-3614a. Whenever an agreement of consolidation between Johnson county consolidated fire district no. 2 and Mission fire district no. 1 is filed in the office of the county clerk, the county board shall at that time appoint three of the former members of the governing body of Johnson county consolidated fire district no. 2 and two of the former members of the governing body of Mission fire district no. 1, and the five members so appointed shall be and constitute the

governing body of the district. As soon as such duly appointed members are appointed and qualified, the terms of the former members of the Johnson county consolidated fire district no. 2 and Mission fire district no. 1 shall thereupon be terminated. *On July 1, 2008, or at its next meeting thereafter, the board of county commissioners shall appoint two additional members to the governing body of Johnson county consolidated fire district no. 2.* The county board shall designate the terms for which each of such ~~five~~ *seven* members of the governing body shall serve, and they shall be governed by all of the rules, regulations, requirements, duties and obligations set forth for members of the original districts.

The newly created consolidated fire district shall be known and designated as Johnson county consolidated fire district no. (____).”;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 42, by striking “and 12-”; in line 43, by striking “3918” and inserting “, 12-3918 and 19-3614a”;

In the title, in line 10, by striking “the consolidation of”; also in line 10, by striking “and fire”; in line 11, by striking “departments”; also in line 11, after the semicolon by inserting “pertaining to the consolidation of certain fire districts with certain fire departments; pertaining to the expansion of the governing body of Johnson county consolidated fire district no. 2.”; in line 12, by striking “and 12-3918” and inserting “, 12-3918 and 19-3614a”, and **SB 574** be passed as further amended.

SB 492 be amended by adoption of the committee amendments and be further amended by motion of Senator Vratil, as amended by Senate Committee, on page 3, in line 24, after “(10)” by inserting “aggravated”; also in line 24, by striking “21-3608” and inserting “21-3608a”;

On page 5, after line 9, by inserting the following:

“(7) endangering a child, as defined in K.S.A. 21-3608, and amendments thereto.”;

By renumbering paragraphs (7) through (10) as paragraphs (8) through (11), respectively;

Also on page 5, in line 17, by striking “in another state or by the federal government” and inserting “committed in violation of a federal law or in violation of another state’s law”; in line 30, by striking “certificate” and inserting “license”.

SB 492 be further amended by Senator Vratil, as amended by Senate Committee, on page 3, in line 41, after “when” by inserting “, at the time the crime was committed.”; also in line 41, by striking “at the time the”; in line 42, by striking “crime was committed” and inserting “or a student of the person committing such crime”;

On page 4, in line 42, by striking the second comma; by striking all in line 43;

On page 5, in line 1, by striking all before the semicolon.

SB 492 be further amended by Senator Brownlee, as amended by Senate Committee, on page 6, following line 13, by inserting:

“New Sec. 2. (a) A teacher shall not read, use or display in a school any material for which an affirmative defense to prosecution may be asserted under subsection (b)(2) of K.S.A. 21-4301a or subsection (c)(2) of 21-4301c, and amendments thereto, unless such use, reading or display has been approved by the board of education of the school district in which such school is located.

(b) A principal of a school shall not allow any person to read, use or display in a school any material for which an affirmative defense to prosecution may be asserted under subsection (b)(2) of K.S.A. 21-4301a or subsection (c)(2) of 21-4301c, and amendments thereto, unless such use, reading or display has been approved by the board of education of the school district in which such school is located.”;

And by renumbering the remaining sections accordingly.

Upon a showing of 5 hands, a roll call vote was requested:

On roll call, the vote was: Yeas 21, Nays 15, Present and Passing 2, Absent or Not Voting 2.

Yeas: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Gilstrap, Huelskamp, Jordan, Journey, Lynn, McGinn, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Taddiken, Wagle, Wilson.

Nays: Allen, Betts, Brungardt, Francisco, Goodwin, Kelly, Lee, Reitz, Schmidt V, Schoendorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Emler, Haley.

Absent or Not Voting: Hensley, Morris.

The motion carried and the amendment was adopted, and **SB 492** be passed as further amended.

EXPLANATION OF VOTE

MR. PRESIDENT: Concerning my vote on **SB 492**, and the amendment found in New Section 2, I would have liked to have had the opportunity to discuss this issue with my School Board and principals within my school district. — DAVID WYSONG

Senators Allen, Betts, Emler, Francisco, Lee, V. Schmidt, Schodorf, Teichman and Umbarger requested the record to show they concur with the "Explanation of Vote" offered by Senator Wysong on **SB 492**.

SB 538 be amended by motion of Senator Bruce, on page 4, in line 24, after the semicolon by inserting "(3) is located at least 5 miles outside any city having a population of 35,000 or more, or is located within a buffer area of: (A) A military installation or facility under the supervision of the United States secretary of the army or the United States secretary of the air force; or (B) a military installation or facility under the supervision of the Kansas national guard;"; in line 25, by striking "(3)" and inserting "(4)", and **SB 538** be passed as amended.

The Committee Report on **SB 549**, recommending a **Sub SB 549** be adopted, and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, February 27, 2008.

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

PAT SAVILLE, *Secretary of the Senate*.

