

# Journal of the Senate

THIRTY-SECOND DAY

---

SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, February 27, 2008—2:30 p.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with forty senators present.

President Morris introduced as guest chaplain, Rev. Kay Scarborough, Senior Pastor of the First United Methodist Church, Manhattan, Kansas, who delivered the invocation:

Strong and gentle God, we come today as persons gifted by you with many talents, various voices, and vast experiences. Inspire all these honorable men and women who have answered Your call and committed themselves to the responsibility of government and leadership to celebrate and be open to the diversity among us. Give them Your vision of truth and justice for all peoples in the State of Kansas, and empower them to stand firm or to yield gracefully as they work together to bring love and liberty to the greatest and the least. We thank You for accomplishments and ask forgiveness for shortcomings. Heal wounded spirits, and bring new life to this chamber. We offer now their deliberations and their decisions to You. Amen.

The Pledge of Allegiance was led by President Stephen Morris.

## POINT OF PERSONAL PRIVILEGE

Senator Brungardt rose on a Point of Personal Privilege to introduce guests: former Astronaut, Dr. Steve Hawley and Kansas University Chancellor Robert Hemenway, who were recognized with a standing ovation.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 657**, An act creating the lifespan respite care program; concerning duties of the department of social and rehabilitation services; making and concerning appropriations for the fiscal years ending June 30, 2009 and June 30, 2010, by Committee on Ways and Means.

**SB 658**, An act making and concerning appropriations for the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013, 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; amending K.S.A. 2007 Supp. 2-223, 55-193, 75-6702, 79-2959, 79-2964, 79-3425i and 79-4801 and repealing the existing sections, by Committee on Ways and Means.

**SB 659**, An act relating to salaries, compensation and certain expense allowances for state officers and legislators; establishing a legislative compensation commission and abolishing the existing compensation commission; amending K.S.A. 40-102, 46-137a and 46-137b and K.S.A. 2007 Supp. 75-3101, 75-3103, 75-3104, 75-3108, 75-3110 and 75-3111a and repealing the existing sections; also repealing K.S.A. 46-3101, by Committee on Federal and State Affairs.

**SB 660**, An act concerning crimes and punishments; relating to smoking; amending K.S.A. 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and repealing the existing sections; also repealing K.S.A. 21-4016 and 21-4017, by Committee on Ways and Means.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **HB 2758**, **HB 2816**.

Judiciary: **HB 2642**, **HB 2644**, **HB 2768**.

Transportation: **HB 2824**.

Ways and Means: **SB 653**, **SB 654**, **SB 655**, **SB 656**.

#### CHANGE OF REFERENCE

The President withdrew **SB 535**, **SB 601**, **SB 624**, **SB 629** from the Committee on **Financial Institutions and Insurance**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 4** from the Committee on **Transportation**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 568** from the Committee on **Public Health and Welfare**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 559** from the Committee on **Agriculture**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 452**, **SB 606** from the Committee on **Natural Resources**, and referred the bills to the Committee on **Ways and Means**.

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2570**, **HB 2648**, **HB 2695**; **Substitute HB 2757**; **HB 2804**, **HB 2908**.

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2570**, **HB 2648**, **HB 2695**; **Substitute HB 2757**; **HB 2804**, **HB 2908** were there-upon introduced and read by title.

#### FINAL ACTION ON CONSENT CALENDAR

**SB 612** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

**SB 612** An act concerning discrimination in employment; relating to domestic violence and sexual abuse victims; authorizing enforcement by the secretary of labor.

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 ON BILLS AND CONCURRENT RESOLUTIONS

**SB 403**, An act concerning postsecondary educational institutions; relating to the faculty of distinction program; amending K.S.A. 2007 Supp. 76-774, 76-775 and 76-776 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Apple, Gilstrap, Haley, Huelskamp, Journey, Lynn, Palmer, Pyle, Taddiken.

The bill passed.

## EXPLANATION OF VOTE

MR. PRESIDENT: I cast my vote of “no” on **SB 403** in this difficult fiscal year. The State of Kansas is facing unprecedented expenses and spending. It is necessary to justify this spending given the difficult economic times our state and nation are confronted with that real economic benefit accrue from this program. Current levels of funding should be sufficient for this fiscal year to continue the program and compensate these employees who are the beneficiaries of the post-secondary faculty distinction programs. The need for fiscal restraint has sent other matters that do not meet the criteria necessary to justify this state spending. Governmental spending has increased at a rate two or three times that of growth of the Kansas economy. Government cannot continue this burden that puts an ever increasing financial drain on Kansas businesses and families.—PHILLIP B. JOURNEY

Senator Lynn requests the record to show she concurs with the “Explanation of Vote” offered by Senator Journey on **SB 403**.

**SB 414**, An act concerning district attorneys; relating to the creation of the office of district attorney in certain counties; expenses of office; amending K.S.A. 22a-102, 22a-103, 22a-105, 22a-106, 22a-107 and 25-617 and K.S.A. 2007 Supp. 25-213, 25-611, 75-3718 and 75-3721 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, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 475**, An act concerning wildlife and parks; relating to Kansas hunters feeding the hungry, inc.; amending K.S.A. 2007 Supp. 32-970, 32-980 and 32-995 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, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 492**, An act concerning teachers; relating to the issuance of teachers’ licenses; amending K.S.A. 2007 Supp. 72-1397 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Haley, Hensley, Huelskamp, Jordan, Lynn, McGinn, Morris, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson.

Nays: Betts, Francisco, Goodwin, Journey, Kelly, Lee, Schodorf, Vratil, Wysong.

The bill passed, as amended.

## EXPLANATION OF VOTE

MR. PRESIDENT: While I sincerely appreciated the amendment offered regarding **SB 492** concerning obscene materials that may be introduced into Kansas elementary and secondary classrooms, the underlying bill has given me serious concerns. To allow a teacher’s license to teach restored after conviction for certain criminal matters without verification of appropriate counseling is not good policy. Current legal procedures are available for most instances of non-person criminal convictions to be expunged. It is unfortunate that such misdemeanor cases as DUI may not be expunged, and I agree with the bill’s sponsor that combination of the lack of expungement and circumstances of the law we should find some remedy for teachers who have lost their licenses. There is no provision in this bill to insure

that they have taken steps such as substance abuse counseling to deal with these problems. This bill does not have the safeguard that the teachers have taken these remedial actions and review by a court with input from both prosecution and defense in making the decision of whether the teacher is worthy of an expungement. Expungements would have the same effect as this legislation, but have the additional safeguard of court review. These safeguards need to be in place for our children.—PHILLIP B. JOURNEY

MR. PRESIDENT: I vote against **SB 492** because of the amendment regarding obscene materials. It was suggested that school boards did nothing if obscene materials were taught in the classroom. This notion is wrong. School boards have many policies and procedures prohibiting obscene materials in the classroom or school. The employee would be suspended and/or fired following due process.

This amendment never went through the committee process so that school boards, teachers and parents could testify on the question and the public could provide input and suggestions about this policy.—JEAN SCHODORF

Senators Betts, Francisco, Goodwin, Kelly, Lee, Vratil and Wysong request the record to show they concur with the "Explanation of Vote" offered by Senator Schodorf on **SB 492**.

**SB 512**, An act concerning emergency medical services; relating to attendant's certificate requirements; amending K.S.A. 65-6112 and 65-6129 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, as amended.

**SB 538**, An act concerning the conservation commission; relating to conservation easements; establishing the farm and ranch land protection program; amending K.S.A. 2-1904 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, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Apple, Huelskamp, Pyle.

The bill passed, as amended.

**SB 546**, An act establishing a family dispute resolution fund; providing for grants; concerning docket fees; amending K.S.A. 20-367 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 18, Nays 22, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Betts, Brownlee, Bruce, Brungardt, Haley, Hensley, Jordan, Lee, McGinn, Morris, Ostmeyer, Petersen, Reitz, Schmidt V, Schodorf, Teichman, Wagle.

Nays: Apple, Barnett, Barone, Donovan, Emler, Francisco, Gilstrap, Goodwin, Huelskamp, Journey, Kelly, Lynn, Palmer, Pine, Pyle, Schmidt D, Steineger, Taddiken, Umbarger, Vratil, Wilson, Wysong.

A constitutional majority having failed to vote in favor of the bill, **SB 546** did not pass.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I support creating a family dispute resolution fund. We need additional resources to help prevent and resolve high conflict family disputes. However, I cannot support funding this new program out of the state general fund. Our budget is extremely tight; we cannot afford to fund new discretionary programs out of the general fund. I can support funding the new proposed program from an increase in docket fees, essentially a user fee.—JOHN VRATIL

Senators Apple, Barnett, Barone, Donovan, Gilstrap, Goodwin, Kelly, Lynn and Pine request the record to show they concur with the “Explanation of Vote” offered by Senator Vratil on **SB 546**.

**Sub SB 549.** An act relating to the board of pharmacy; concerning continuous quality improvement programs and nonresident pharmacy; amending K.S.A. 65-1657 and repealing the existing section, 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, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Journey.

The substitute bill passed.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I vote “no” on **Substitute for SB 549**. While the goal of the legislation and many of its components are important improvements to current law creating a program with great promise, **Substitute for SB 549** establishes a privilege for pharmacists during peer review of their practice for negligence that may hide that negligence as embodied in **Substitute for SB 549**. The bill’s proponents’ refusal to accept language that is clearly stated in *Adams v. St. Francis* 264 Kan. 144 will cause terrible expense to litigants in these cases as the court appeals process will surely occur and it is very likely that the Kansas Supreme Court will issue orders overruling of these provisions.—PHILLIP B. JOURNEY

MR. PRESIDENT: This bill will grant a peer review privilege to pharmacists, who are members of the health care community, to promote greater competency and improve the quality of medical care by encouraging frank and open discussion about care rendered and ways to improve the system. Courts have always recognized the strong state interest in creating a peer review privilege, but that privilege is also balanced against a plaintiff’s need to have access to all relevant facts about their care. In our state, the forms and documents containing factual information about a patient’s care are not protected from discovery by the peer review statutes. But information generated by a peer review committee, including the opinions, decision-making process and conclusions of committee members or officers are protected from discovery. When documents contain both types of information - protected and unprotected - it is the job of the court to remove (redact) protected information, and grant plaintiffs access to the portions containing relevant facts. The law, as clarified by the Kansas Supreme Court in the *Adams v. St. Francis Regional Medical Center* case, does a good job of balancing these competing interests. The citizens of Kansas will be well served by granting this peer review privilege to Kansas pharmacists.—VICKI SSHMIDT

Senators Barnett, Gilstrap, Lynn, Pine and Umbarger request the record to show they concur with the “Explanation of Vote” offered by Senator V. Schmidt on **SB 549**.

**SB 574,** An act concerning certain fire districts in Johnson County, Kansas; 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; amending K.S.A. 12-3913, 12-3914, 12-3916, 12-3918 and 19-3614a and K.S.A. 2007 Supp. 12-3915 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Apple, Barone, Journey, Petersen, Pyle, Taddiken.

The bill passed as amended.

## EXPLANATION OF VOTE

MR. PRESIDENT: The intent of **SB 574** to help consolidate fire protection services is worthwhile. I vote “no” on **SB 574** because of the provision for additional property tax authority. Additionally the property tax is levied by a board that is not elected by the people of their taxing district. Property taxes continue to place a financial burden on many people in Kansas. Respectfully I vote “no”.—PAT APPLE

Senators Barone, Journey and Petersen request the record to show they concur with the “Explanation of Vote” offered by Senator Apple on **SB 574**.

**SB 575**, An act concerning campaign finance; prohibiting the use of public funds and certain other public assets to influence the nomination or election of a candidate; amending K.S.A. 25-4169a and repealing the existing section, 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, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Journey.

The bill passed, as amended.

## EXPLANATION OF VOTE

MR. PRESIDENT: I vote “no” on **SB 575**. I sincerely want to thank the bill’s sponsor and the committee work on **SB 575**. I believe that there is a small drafting issue that requires my “no” vote. It may not allow for a candidate who is currently holding office to run for a different office, while holding that office under the provisions of the legislation. Also, I am concerned about the allowance of personal staff of a candidate who at government expense may campaign on behalf of their boss. Therefore, I must vote “no” on **SB 575** as it is currently drafted. Should it come back with appropriate language inserted by the House, I expect I will reconsider my vote.—PHILLIP B. JOURNEY

## REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 592** be amended on page 17, in line 13, after the semicolon, by inserting “and”; by striking all in lines 14 and 15; in line 16, by striking “(23)” and inserting “(22)”;

On page 32, in line 3, by striking “and”;

On page 33, in line 4, before the period by inserting the following:

“(ccc) all sales of entry or participation fees, charges or tickets by Guadalupe health foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for such organization’s annual fundraising event which purpose is to provide health care services for uninsured workers;

(ddd) all sales of tangible personal property and services purchased by Shawnee community services, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing food and clothing to those in need; and all sales of such property and services by or on behalf of such organization for any such purpose; and all sales of such personal property and services purchased by such organization which are used by such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of facilities for operation of services of such organization and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of facilities for the operation of services for such organization for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of such facilities for such organization. When such organization contracts for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or re-

modeling of such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(eeee) all sales of tangible personal property and services by or on behalf of the Steve King foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing assistance to dirt track race car drivers, pit crew members, track officials and personnel, or their families, who are seriously ill, severely injured or killed, and obtaining and maintaining safety equipment or implementing safety measures to enhance and improve dirt track racing;

(ffff) all sales of tangible personal property purchased by or on behalf of an educational foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing support for educational programs and services offered by a public or private elementary or secondary school, and all sales of any such property by or on behalf of such foundation for such purpose;

(gggg) all sales of tangible personal property and services purchased by Kansas legal services, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing legal, mediation and employment training services to low income individuals and families;

(hhhh) all sales of tangible personal property or services purchased by or on behalf of wayside waifs, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing such organization's annual fundraiser, an event whose purpose is to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children and efforts to reduce animal over-population and animal welfare services, and all sales of any such property, including entry or participation fees or charges, by or on behalf of such organization for such purpose;

(iiii) all sales of personal property and services purchased by or on behalf of Kansas CASA association, inc., and its member programs which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of supporting and promoting the growth, development and continuation of local CASA programs which provide advocacy services on behalf of children and youth involved in the court system, and all sales of any such property by or on behalf of any such organizations for any such purpose;

(jjjj) all sales of personal property and services purchased by or on behalf of St. Francis community services, inc., St. Francis community and residential services, inc., St. Francis community and family services, inc. and St. Francis community outreach services, inc., which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal

internal revenue code, for the purpose of providing emergency care, shelter and treatment for abused and neglected children and families as well as meeting additional critical needs for children, juveniles and families, and all sales of any such property by or on behalf of any such organization for any such purpose; and all sales of personal property and services purchased by such organization which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of facilities for such organization, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the facilities for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto; as determined under the provisions of this subsection;

(kkkk) all sales of personal property and services purchased by or on behalf of east central Kansas economic opportunity corporation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of focusing public and private resources to enable rural and urban low-income families and individuals of all ages to attain the skills, knowledge, attitudes and motivations needed to secure opportunities to become self-sufficient, and all sales of any such property by or on behalf of such organization for such purpose;

(llll) all sales of personal property and services purchased by Douglas county senior services, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of planning, directing, contracting and organizing of services and creating opportunities for Douglas county residents who are 60 years of age and older to allow such residents to remain independent and active in their homes and communities, and all sales of any such property by such organization for any such purpose;

(mmmm) all sales of tangible personal property purchased by or on behalf of Paola senior center, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of enhancing the lives of older people to help such people remain active in community and civic affairs, and to continue to live independently in their homes, and all sales of any such property by or on behalf of such organization



for any such purpose; and all sales of personal property and services purchased by such organization which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of facilities for such organization, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the facilities for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(nnnn) all sales of admissions or tickets to annual county fairs held by county fair associations to provide support for the education and encouragement of improvement in agriculture, horticulture, livestock, poultry, dairy products, liberal arts, fine arts, domestic economy and 4-H club activities of citizens of the county; and

(oooo) all sales of tangible personal property and services purchased by a contractor for the capital improvement project to construct, equip, furnish, renovate, reconstruct and repair the state capitol, which would be exempt from taxation if purchased directly by the state of Kansas. The state of Kansas shall furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same, bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the state, a sworn statement, on a form to be provided by the director

of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto”;

On page 1, in the title, in line 9, by striking “the mirror,”; in line 10, by striking “inc.,”; and the bill be passed as amended.

Committee on **Education** recommends **SB 401, SB 628** be passed.

Also, **SB 527** be amended on page 1, by striking all in lines 36 through 43;

By renumbering the remaining sections accordingly; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 640** be passed.

**SB 615** be amended on page 7, in line 21, following the period by inserting “Nothing in this section shall prevent any holder of a perfected security interest from recovering for any property damage to a motor vehicle.”; and the bill be passed as amended.

Committee on **Utilities** recommends **SB 555** be amended on page 1, in line 14, by striking “electric, gas, telephone or”; in line 16, by striking “an increase in tariffs or charges” and inserting “a major increase in rates or charges”; in line 17, by striking “tariff or charge increase” and inserting “major increase in rates or charges”; in line 20, after “bill insert” by inserting “or bill message”; in line 24, after “increase” by inserting “and a website address for the state corporation commission”; in line 26, by striking “an” and inserting “a major”; also in line 26, by striking “tariffs” and inserting “rates”; in line 27, by striking “electric, gas, telephone or”; in line 30, by striking “electric, gas,”; in line 31, by striking “telephone or”; also in line 31, after “utility” by inserting “and the state corporation commission”; in line 33, by striking “less” and inserting “more”; in line 34, by striking all after “major” and inserting “increase in rates or charges. The state corporation commission shall post on its website whether or not the citizens’ utility ratepayer board intends to intervene.”; after line 34, by inserting the following:

“(d) As used in this section, “a major increase in rates or charges” means:

(1) The application relates to a general increase in revenues for the purpose of obtaining an alleged fair rate of return;

(2) material changes in operations, facilities or cost of service occur subsequent to the test year employed in any major rate decision, except for proposals that are for the sole purpose of compensating for the increased production or purchase cost of a principal product; or

(3) the application for a major increase in rates or charges will, in the opinion of the state corporation commission, materially affect the public interest if it is granted.”;

In the title, in line 9, after “certain” by inserting “water”; and the bill be passed as amended.

**SB 586** be amended on page 1, in line 19, by striking “in an expedited manner,”;

On page 2, in line 6, by striking all after “generation facility”; in line 7, by striking “ice on or after January 1, 2001”; 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 Brownlee in the Chair.

On motion of Senator Brownlee the following report was adopted:

**SB 415, SB 474, SB 498, SB 563** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 443** be amended by adoption of the committee amendments and be further amended by motion of Senator Barnett on page 4, in line 30, by striking "each"

**SB 443** be further amended by Senator Teichman on page 2, in line 35, by striking all after "exchanged"; in line 36, by striking "amendments thereto"; and **SB 443** be passed as further amended.

**SB 545** be amended by adoption of the committee amendments, and be further amended by motion of Senator V. Schmidt on page 8, in line 36, by striking "statute book" and inserting "Kansas register"; and **SB 545** be passed as further amended.

The committee report on **SB 501**, recommending a **Sub SB 501** be adopted and the substitute bill be passed.

The committee report on **SB 596**, recommending a **Sub SB 596**, be adopted and the substitute bill be passed.

**SB 495** be passed over and retain a place on the calendar.

On emergency motion of Senator D. Schmidt, **HB 2622** was moved to the top of the calendar under the heading of General Orders.

On emergency motion of Senator D. Schmidt, **HB 2071** was moved to the top of the calendar under the heading of General Orders.

On emergency motion of Senator D. Schmidt, **SB 588** was moved to the top of the calendar under the heading of General Orders.

On emergency motion of Senator D. Schmidt, **SB 581** was moved to the top of the calendar under the heading of General Orders.

On emergency motion of Senator D. Schmidt, **SB 580** was moved to the top of the calendar under the heading of General Orders.

On emergency motion of Senator D. Schmidt, **SB 570** was moved to the top of the calendar under the heading of General Orders.

On emergency motion of Senator D. Schmidt, **SB 565** was moved to the top of the calendar under the heading of General Orders.

On emergency motion of Senator D. Schmidt, **SB 558** was moved to the top of the calendar under the heading of General Orders.

Recommended **SB 558, SB 581; HB 2622** be passed.

**SB 565, SB 570, SB 580; HB 2071** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 588** be amended by adoption of the committee amendments, and be further amended by motion of Senator Journey as amended by Senate Committee, on page 1, in line 31, after the period, by inserting: " "Correctional institution" does not include any parking lot open to the public."; in line 36, after the last period, by inserting " "Care and treatment facility" does not include any parking lot open to the public."; and **SB 588** be passed as further amended.

A motion by Senator Haley to amend **SB 588** failed and the following amendment was rejected: on page 2, after line 7, by inserting the following:

"New Sec. 2. (a) An oral, written or sign language statement of a defendant made as a result of an interrogation relating to an alleged felony, as defined by K.S.A. 21-3105, and amendments thereto, shall be presumed to be inadmissible as evidence against the defendant in any criminal proceeding brought against a defendant unless:

(1) A video recording is made of the felony interrogation; and

(2) the recording is substantially accurate and not intentionally altered.

(b) Every video recording required under this section must be preserved until the defendant's conviction for an offense relating to the statement is final and all direct and habeas corpus appeals are exhausted or until the prosecution of offenses related to the recorded statement is barred by law, whichever occurs later.

(c) If the court finds by a preponderance of the evidence that the defendant was subjected to a felony interrogation in violation of this section, any statement made by the defendant during or following that interrogation in violation of this section, even if otherwise in compliance with this section, is presumed to be inadmissible in any criminal proceeding against the defendant except for the purpose of impeachment.

(d) Nothing in this section precludes the admission of a:

(1) Statement made by the defendant in open court at the defendant's trial, before a grand jury or at a preliminary hearing;

(2) statement made during a felony interrogation that was not recorded as required by this section because video recording was not feasible;

(3) voluntary statement, whether or not the result of felony interrogation, that has a bearing on the credibility of the accused as a witness;

(4) spontaneous statement that is not made in response to a question;

(5) statement made after questioning that is routinely asked during the processing of the arrest of a suspect;

(6) statement made during a felony interrogation that is conducted out-of-state; or

(7) statement given at a time when the interrogators are unaware that an alleged felony has occurred.

(e) The state shall bear the burden of proving by a preponderance of the evidence that one of the exceptions described in subsection (d) is applicable. Nothing in this section precludes the admission of a statement, otherwise inadmissible under this section, that is used only for impeachment and not as substantive evidence.

(f) The presumption of inadmissibility of a statement made by a suspect at a felony interrogation at a police station or other place of detention may be overcome by a preponderance of the evidence that the statement was voluntarily given and is reliable based on the totality of the circumstances.

(g) Any video recording of any statement made by a defendant during a felony interrogation that is compiled by any law enforcement agency as required by this section shall be confidential and exempt from the Kansas open records act in accordance with K.S.A. 45-221, and amendments thereto.

(h) As used in this section, "video recording" means to capture the visual and audio components of an event in a manner that allows the event to be observed through that medium.";

And by renumbering the remaining sections accordingly;

In the title, in line 10, by striking "and punishment" and inserting ", punishment and civil procedure"; in line 11, after the semicolon, by inserting "videotaping of felony interrogations;"

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Thursday, February 28, 2008.

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

PAT SAVILLE, *Secretary of the Senate.*

