

Journal of the Senate

FORTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, March 17, 2008—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-five senators present.
Senators Barone, Betts, Gilstrap, Haley and Pine were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
St. Patrick is the object
Of our commemoration.
He did much more than chase the snakes
From the Irish nation.

He preached the gospel to the Irish
And founded many churches.
Thousands came to know the Christ,
For Whom the world still searches.

Lord, I would like to close this prayer with one of St. Patrick's prayers:

*I rise today, through God's might to uphold me,
God's wisdom to guide me,
God's eye to look before me,
God's ear to hear me,
God's hand to guard me,
God's way to lie before me,
And God's shield to protect me.*

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 and resolution were introduced and read by title:

SB 684, An act concerning criminal procedure; relating to the consolidation of community corrections and court services in certain judicial districts; expenses of such office; amending K.S.A. 20-345 and 20-346a and repealing the existing sections, by Committee on Federal and State Affairs.

SB 685, An act concerning the Kansas funeral picketing act; repealing K.S.A. 21-4015, as amended by section 1 of chapter 111 of the 2007 session laws of Kansas and K.S.A. 2007 Supp. 75-702a, by Committee on Ways and Means.

SB 686, An act concerning apportionment of business income; amending K.S.A. 2007 Supp. 79-3279 and repealing the existing section, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1622—

By Senators Petersen, Donovan, Huelskamp, Journey, Lynn, Ostmeyer, Palmer, Pyle,
Taddiken, Wagle and Wilson

A PROPOSITION to amend the bill of rights of the constitution of the state of Kansas by adding a new section thereto, relating to the public right to hunt and fish.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: The bill of rights of the constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

“§ 21. **Right of public to hunt, fish and trap.** The people have a right to hunt, fish, trap and harvest game, subject to reasonable regulations approved by the state legislature. Consistent with the public trust to conserve birds, fish, game and wildlife, traditional methods may be used to take non-threatened species. Public hunting, fishing and trapping shall be the preferred means of managing and controlling non-threatened wildlife. Nothing in this amendment shall be construed to modify any provision of common law or statutes relating to trespass, eminent domain or any other property rights.

“Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“*Explanatory statement.* This amendment is to preserve constitutionally the right of the public to hunt, fish and trap wildlife subject to the governing laws and regulations. The right of the public to hunt, fish and trap shall not modify any provision of common law or statutes relating to trespass, eminent domain or any other private property rights.

“A vote for this proposition would constitutionally preserve the right of the public to hunt, fish and trap wildlife that has traditionally been taken by hunters, trappers and anglers. This public right is subject to state laws and regulations regarding the management of wildlife and does not change or diminish common law or statutory rights relating to trespass, eminent domain or private property.

“A vote against this proposition would provide for no constitutional right of the public to hunt, fish and trap wildlife. It would maintain existing state laws and regulations governing hunting, fishing and trapping wildlife.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 2008 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Judiciary: **SB 682.**

Transportation: **SB 683.**

Ways and Means: **SB 680, SB 681.**

CHANGE OF REFERENCE

The President withdrew **HB 2001** from the Committee on **Judiciary**, and referred the bill to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2714, HB 2873, HB 2858.**

Also, passage of **SB 433, SB 434; SB 437, as amended.**

The House accedes to the request of the Senate for a conference on **House Substitute for SB 113** and has appointed Representatives Shultz, Brown and Dillmore 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 273** and has appointed Representatives Shultz, Brown and Dillmore as conferees on the part of the House.

The House adopts the conference committee report on **Sub SB 89.**

Announcing passage of **Substitute HB 2762; HB 2893, HB 2938.**

Also, passage of **SB 579.**

The House nonconcur in Senate amendments to **HB 2660**, requests a conference and appoints Representatives Faber, Knox and Svaty as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2692**, requests a conference and appoints Representatives C. Holmes, Olson and Kuether as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2714; Substitute HB 2762; HB 2858, HB 2873, HB 2893, HB 2938 were there-upon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Vratil, the Senate nonconcurred in the House amendments to **SB 435** and requested a conference committee be appointed.

The President appointed Senators Vratil, Bruce and Goodwin as a conference committee on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1827—

A RESOLUTION congratulating and commending the city of Kincaid, Kansas, on the 100th Anniversary of the Kincaid Free Fair.

WHEREAS, In 1904, the first "Farmers' Institute" was held in Kincaid, Kansas, when the State College extension service in Manhattan, Kansas, sent a lecturer to speak on farm subjects. In 1905, in addition to the lecture, several farmers brought buckets of grain and fruit to display in a local office and interest grew over the next two years. In 1908, city leaders, believing a full blown fair was warranted, built a new city hall especially for the exhibits and chose the slogan "Bigger and Better Than Ever." With the exception of two years during World War II, the Kincaid Free Fair has been held every year since; and

WHEREAS, In the early years, the Kincaid Free Fair was a time for local citizens to show off the results of their farming, gardening and handicraft skills with displays of baked and canned goods, quilting and crafts, flowers and farm and garden produce; and

WHEREAS, As popularity of the Kincaid Free Fair increased, more events were added including a queen selected by popular vote, a parade, concessions, horse and pony pulls, horseshoe pitching contests, and turtle and children's races. Toby's Carnival midway has been a favorite for more than 40 years. Once there were 23 wagon loads of corn in the parade and on another occasion a couple actually had a street wedding during the fair; and

WHEREAS, In 1985, due to continued growth of the Kincaid Free Fair, a new building was erected on the site of the old VanBuskirk and Booher hardware store; and

WHEREAS, This year's Kincaid Free Fair president, Clyde Durst, and vice president, Wes Pinneo, are heading a group of more than 25 citizens to plan the centennial celebration. Ideas being considered to make the event special include arranging a commemorative stamp cancellation at the Kincaid Post Office, expanded games for the children and adults, additional exhibit space, a longer parade and a fireworks display; and

WHEREAS, The Kincaid Free Fair draws crowds not only from the southeast area of Anderson County, but also many former residents who make it an annual homecoming; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the city of Kincaid, Kansas, on the 100th anniversary of the Kincaid Free Fair and for continuing a beloved tradition in Anderson County; further, we congratulate and commend Clyde Durst, Wes Pinneo and the citizens of Kincaid for ensuring that this year's fair will be "Bigger and Better Than Ever"; and

Be it further resolved: That the Secretary of the Senate provide 10 enrolled copies of this resolution to Senator Derek Schmidt for presentation to the citizens of Kincaid, Kansas.

On emergency motion of Senator D. Schmidt **SR 1827** was adopted unanimously.

Senator D. Schmidt introduced the following guests who were seated in the VIP section: Arlis Adams, Bonnie Adams, Aaron and Sandra Hosley, Neil and Mary Jane Holloway, Richard and Marguerite Adams and Clyde and Holly Durst. Guests were honored with a standing ovation by the senators.

Senators Morris and Hensley introduced the following Senate resolution which was read:

SENATE RESOLUTION No. 1828—

A RESOLUTION congratulating and commending Ann E. (Annie) Marquis.

WHEREAS, Ann E. (Annie) Marquis retired December 14, 2007, after serving the Kansas Legislature for 38 years through her outstanding efforts in the Kansas Legislative Research Department; and

WHEREAS, Annie Marquis commenced working for the Legislative Research Department in July 1969 as a Clerk-Typist I; and because of her outstanding work ethic was promoted to Clerk Typist II in August 1973; to Secretary I in January 1978; to Secretary II in June 1978; to Secretary III in June 1985; to Head Secretary in November 1995; and then to her final promotion to Administrative Officer for the Department, in June 2003; and

WHEREAS, Annie Marquis, was known throughout the Research Department and in many other offices in the statehouse for her kind smile; helpful ways; her dedication to helping those in need through coordination of events to assist hurricane Katrina and Greensburg, Kansas tornado victims; the sharing of her frank and direct comments; her appreciation of the Nebraska Cornhuskers; and her delicious peach pie; and

WHEREAS, Annie Marquis, was born to Donald and Berea Nigus and reared in Everest, KS with her brothers Donald Nigus Jr. and David Nigus; and

WHEREAS, Annie Marquis, was married to Roger L. Marquis on June 9, 1968 in Everest. They have a daughter, Amy D. Ellis, and a son, Scott M. Marquis, and are proud grandparents of three grandchildren: Nickalas A. Ellis, Graceann A. Ellis, and Shawn M. Marquis: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Ann E. (Annie) Marquis, for her 38 years of devoted service to the state of Kansas; and

Be it further resolved: That the Secretary of the Senate be directed to provide enrolled copies of this resolution to Ann E. (Annie) Marquis, 7224 SW 23rd Street, Topeka, Kansas 66614; Scott and Andrea Marquis, 3551 SW Wesparke Court, Topeka, Kansas 66614; Amy and Michael Ellis, 1101 Current Court, Liberty, Missouri 64068; and Berea Nigus, 511 Iowa, Hiawatha, Kansas 66434.

On emergency motion of Senator Hensley **SR 1828** was adopted unanimously.

Senator Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1829—

A RESOLUTION recognizing the 75th anniversary of the Edward "Ted" Rowe VFW Post 2709 in Scranton, Kansas.

WHEREAS, The Edward "Ted" Rowe VFW Post 2709 was named after the first Scranton man to die in World War I; and

WHEREAS, The post was instituted on October 10, 1932, with 88 charter members, and the Auxiliary was instituted on November 29, 1932, with 63 charter members; and

WHEREAS, The first commander was Albert Alberg, and the first Auxiliary President was Thelma Alberg; and

WHEREAS, The priorities have always been the veterans, youth and community. The post's most important programs are veterans hospitals, VFW national home for children, cancer aid and research, Operation Uplink, and assisting with veterans' unmet needs. The

post also helps the homeless and those who are less fortunate. Members of the post put in hours for community service and assist with a new program for their district, Wreaths Across America; and

WHEREAS, The post has the Patriotic Art, Voice of Democracy scholarship program for grades 9-12 and the Patriots Pen for grades 6-8; and

WHEREAS, The post tries each year to honor a Youth Volunteer of the Year, a Teacher of the Year and a Veteran of the Year; and

WHEREAS, The post's present commander is John Starkebaum, who is in his 1st year. The current Auxiliary President is Donna Biester, who is in her 13th year as President: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize 2008 as the 75th anniversary of the founding of the Edward "Ted" Rowe VFW Post 2709 in Scranton, Kansas and that we thank them for their service to their community and state; and

Be it further resolved: That the Secretary of the Senate be directed to provide 5 enrolled copies of this resolution to Donna Biester, President, VFW Auxiliary Post 2709, 311 South Mason, #4, Scranton, KS 62537.

On emergency motion of Senator Hensley **SR 1829** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 590** be amended on page 3, in line 37, by striking "and" and inserting a comma; in line 38, following "designee" by inserting ", a member of the Kansas sentencing commission, a prosecutor appointed by the Kansas county and district attorneys association," and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2657**, as amended by House Committee, be amended on page 2, in line 31, by striking all following the comma; in line 32, by striking all preceding "until" and inserting "the motorboat shall not be operated on the waters of this state"; in line 42, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 4** be amended on page 1, by striking all in lines 14 through 30; in line 31, by striking "New Sec. 2." and inserting "New Section 1."; And by renumbering the remaining sections accordingly;

Also on page 1, in line 31, by striking "com-"; in line 32, by striking "munity corrections" and inserting "correctional services"; also in line 32, by striking "com-"; in line 33, by striking "munity corrections" and inserting "correctional services"; in line 35, by striking "community corrections" and inserting "correctional services"; in line 39, by striking "2006" and inserting "2007";

On page 2, in lines 19 and 23, by striking "2006" and inserting "2007";

On page 3, after line 38, by inserting the following:

"(f) The division, in the interest of traffic and safety, may establish or contract with a private individual, corporation, partnership or association for the services of driver improvement clinics throughout the state and, upon reviewing the driving record of a person whose driving privileges are subject to suspension under subsection (a)(2), may permit the person to retain such person's driving privileges by attending a driver improvement clinic. Any person other than a person issued a commercial driver's license, under K.S.A. 8-2,125 et seq., and amendments thereto, desiring to attend a driver improvement clinic shall make application to the division and such application shall be accompanied by the required fee. The secretary of revenue shall adopt rules and regulations prescribing a driver's improvement clinic fee which shall not exceed \$500 and such rules and regulations deemed necessary for carrying out the provisions of this section, including the development of standards and criteria to be utilized by such driver improvement clinics.";

On page 4, in line 7, by striking "(f)" and inserting "Amounts received under this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the same in the state treasury as prescribed by subsection (f) of K.S.A. 8-267, and amendments thereto.

(g)";

Also on page 4, in line 9, by striking “2006” and inserting “2007”; in line 11, after “suspension” by inserting “restriction”; in lines 21 and 42 by striking “2006” and inserting “2007”;

On page 5, in line 1, by striking “section”; in line 2, by striking “1,” and inserting “K.S.A. 8-255.”; in line 3, by striking “\$150” and inserting “50%”; in line 5, by striking “\$200” and inserting “50%”; also in line 5, by striking “community corrections” and inserting “correctional services”; in line 19, by striking “2006” and inserting “2007”; in line 20, by striking “its”; in line 21, by striking all before the period and inserting “January 1, 2009”;

On page 1, in the title, in line 11, by striking “2006” and inserting “2007”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 679** be passed.

Also, **HB 2916**, as amended by House Committee, be amended by substituting a new bill to be designated as “Senate Substitute for HOUSE BILL No. 2916,” as follows:

“SENATE Substitute for HOUSE BILL No. 2916

Committee on Ways and Means

AN ACT concerning state officers and employees; relating to benefits, expenses, salaries and compensation; making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013; amending K.S.A. 40-102, 46-137a , 46-137b and 74-3202a and K.S.A. 2007 Supp. 75-3101, 75-3103, 75- 3104, 75-3108, 75-3110, 75-3111a and 76-715a and repealing the existing sections; also repealing K.S.A. 2007 Supp. 76-715b.”;

and the substitute bill be passed.

SB 597 be amended on page 1, in line 14, by striking “university of Kansas medical center” and inserting “Kansas dental board”; in line 21, by striking all after “the” where it appears for the first time; in line 22, by striking all before the period and inserting “Kansas dental board”; in line 23, by striking “university of”; in line 24, by striking “Kansas medical center” and inserting “Kansas dental board”; in line 38, by striking “Douglas, Johnson, Sedgwick, Shawnee or Wyandotte” and inserting “Butler, Douglas, Johnson, Leavenworth, Reno, Riley, Saline, Sedgwick, Shawnee or Wyandotte”;

On page 2, in lines 3, 5 and 21 by striking “university of Kansas medical center” and inserting “Kansas dental board”; in line 30, by striking “Douglas, Johnson, Sedgwick.”; in line 31, by striking “Shawnee or Wyandotte” and inserting “Butler, Douglas, Johnson, Leavenworth, Reno, Riley, Saline, Sedgwick, Shawnee or Wyandotte”; in line 34, after the semicolon, by inserting “and”; in line 37, by striking “university of Kansas medical”; in line 38, by striking “center” and inserting “Kansas dental board”; and the bill be passed as amended.

SB 638 be amended on page 1, in line 17, after “Lots” by inserting “7, 8, 9, 10.”; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, March 18, 2008.

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

PAT SAVILLE, *Secretary of the Senate.*

