

Journal of the Senate

FORTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, March 15, 2010—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,

Today I want to thank You for the Secretary of the Senate Staff without whom the Senate could not function:

Pat Saville is Secretary of the Senate and the following people are members of her staff:

Administrative Assistant	Verla Vines
Enrolling Clerk	Lori Cackler
Reading Clerk	Stephen Jones
Journal Clerk	Rose Marie Glatt
Office Secretary	Thelma Haefner
Enrolling Clerk	Vanita Hunt
Calendar Clerk	Carol Kirkwood
Journal Clerk	Shirley Lamott
Journal Clerk	Helen Moreland
Calendar Clerk	Martha Ozias
Enrolling Clerk	Doris Renneke
Bill Status Clerk	Jude Simnitt
Desk Clerk	Elaine Ward

Bless Pat and her staff members and give them good health for many years.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

POINT OF PERSONAL PRIVILEGE

Senator Faust-Goudeau rose on a Point of Personal Privilege to recognize the ladies of Delta Sigma Theta seated in the West Gallery.

Senator Haley joined her in offering the following remarks: It is my honor indeed to ask the Senate's recognition of this organization, bedecked in resplendent red, whose membership includes my own mother, Doris Haley, my own sister, Anne Haley-Brown . . . and my own children's mother, Dr. Michelle Haley, among many, many other socially and professionally motivated women across our country and the world. Thank you again in this recognition.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 577, An act concerning requirements for the issuance of certificates of title for vessels; requiring notice, priority, release and surrender of security interests in vessels, by Committee on Ways and Means.

CHANGE OF REFERENCE

The President withdrew **SB 576** from the Committee on **Ways and Means** and referred the bill to the Committee on **Ethics and Elections**.

The President withdrew **HB 2508** from the Committee on **Judiciary** and referred the bill to the Committee on **Agriculture**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT OF REVENUE

March 15, 2010

Pursuant to KSA 79-1490, Mark S. Beck, Director, Division of Property Valuation, submitted the 2009 Preliminary Real Estate Appraisal/Sales Ratio Study.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 376**, **SB 396**, **SB 440**, **SB 464**; **HB 2578**.

Also, passage of **SB 200**, as amended by **House Substitute for SB 200**; **SB 326**, as amended, **SB 461**, as amended, **SB 497**, as amended; **SCR 1615**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2578 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Brownlee and Colyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1842—

A RESOLUTION congratulating and commending Kavya Shivashankar of Olathe for winning the 2009 National Spelling Bee.

WHEREAS, Kavya Shivashankar, a 13-year-old student at California Trail Junior High in Olathe, is the 2009 Scripps National Spelling Bee champion. Kavya devoted much of her free time to studying spelling, and takes her education very seriously, aspiring to one day be a neurosurgeon. She also enjoys playing the violin, bicycling, swimming and learning classical Indian dance; and

WHEREAS, Kavya, with support from her parents, Mirle and Sandy, and sister Vanya, made the trip to Washington to compete against 293 participants in the 82nd annual competition. This was Kavya's fourth appearance in the National Spelling Bee, having finished tenth, eighth and fourth over the last three years; and

WHEREAS, Jill Biden, wife of Vice President Joe Biden, introduced the final rounds of the competition, which was broadcast on network television in prime time; and

WHEREAS, Kavya advanced in the competition by spelling such words as "hydrargyrum," "escritoire," "blancmange," and "huisache." In the final round, Kavya correctly spelled the word "Laodicean," thus winning \$40,000 in cash and prizes. Now that she has won, she is retiring from the competition: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Kavya Shivashankar for winning the 2009 National Spelling Bee competition, take pride in her outstanding achievements as a role model for her peers in Kansas and across the nation, and wish her continued success and happiness in the future; and

Be it further resolved: That the Secretary of the Senate be directed to give one enrolled copy of this resolution to Kavya Shivashankar, one enrolled copy to her parents, Mirle and Sandy Shivashankar and send one enrolled copy to Larry Katzif, Principal of California Trail Junior High School, 13775 W. 133rd St., Olathe, Kansas 66062.

On emergency motion of Senator Brownlee **SR 1842** was adopted unanimously.
 Senator Brownlee introduced and congratulated Kavya Shivashankar for winning the 2009 National Spelling Bee. Her Father, Mirlle Shivashankar and sister, Vanya Shivashankar were also introduced.

REPORT ON ENGROSSED BILLS

SB 359, SB 435 reported correctly engrossed March 12, 2010.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **HB 2503, HB 2557, HB 2604** be passed and because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

Also, **HB 2432**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2432," as follows:

"SENATE Substitute for HOUSE BILL No. 2432

By Committee on Judiciary

"AN ACT concerning crimes, punishment and criminal procedure; relating to justified threat or use of force; amending K.S.A. 21-3211, 21-3212, 21-3214, 21-3215, 21-3216, 21-3217, 21-3218 and 21-3219 and repealing the existing sections.;"

and the substitute bill be passed.

HB 2506 be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2506," as follows:

"SENATE Substitute for HOUSE BILL No. 2506

By Committee on Judiciary

"AN ACT concerning crimes, criminal procedure and punishment; relating to the Kansas parole board; considerations of the parole board when determining eligibility; conditions of parole and postrelease supervision; discharge of an inmate by the parole board; amending K.S.A. 22-3722 and K.S.A. 2009 Supp. 22-3717 and repealing the existing sections.;"

and the substitute bill be passed.

HB 2412, as amended by House Committee, be amended on page 2, in line 19, by striking "and off-grid"; after line 42, by inserting the following:

"(d) This section does not apply to any person sentenced to imprisonment for an off-grid offense.;"

On page 3, in line 14, by striking "a member of"; also in line 14, by striking "member"; in line 16, by striking "member"; in line 17, by striking "a terminal illness or condition" and inserting "been deemed by a doctor licensed to practice medicine and surgery in Kansas to have a terminal medical condition"; in line 19, by striking "member"; in line 20, by striking "member" and inserting "board"; in line 22, by striking "member"; in line 35, by striking "and off-grid"; in line 39, by striking "member";

On page 4, in line 1, by striking "member"; after line 19, by inserting the following:

"(d) This section does not apply to any person sentenced to imprisonment for an off-grid offense.;" and the bill be passed as amended.

HB 2440, as amended by House Committee, be amended on page 1, in line 26, by striking all after the period; by striking all in line 27; in line 28, by striking all before "Such"; in line 32, before "family" by inserting "victim's"; in line 43, by striking "and family";

On page 3, in line 3, by striking "and family"; in line 20, by striking "and family"; in line 31, by striking "and family"; in line 41, by striking "and family";

On page 4, in line 12, by striking "and fam-"; in line 13, by striking "ily"; in line 26, by striking "and family"; in line 40, by striking "and family";

On page 5, in line 27, by striking "and family";

On page 6, in line 17, by striking "and family"; in line 25, by striking "and family";

On page 7, in line 24, by striking "and family";

On page 8, in line 37, by striking "and family";

On page 9, in line 27, by striking "and family";

On page 10, in line 6, by striking "and family"; in line 35, by striking "and family";

On page 11, in line 3, by striking "and family";

In the title, in line 11, by striking “family and”; and the bill be passed as amended.

HB 2469 be amended on page 2, in line 39, by striking “statute book” and inserting “Kansas register”; and the bill be passed as amended.

HB 2605, as amended by House Committee, be amended on page 2, in line 22, after “provided” by inserting a comma; in line 23, after “investigation” by inserting a comma; by striking all in lines 29 through 32;

And by redesignating subsections accordingly;

On page 3, in line 15, by striking “(e)” and inserting “(d)”; in line 20, by striking “lab analysis” and inserting “forensic laboratory and materials”; after line 22, by inserting the following:

“Sec. 2. K.S.A. 2009 Supp. 75-724 is hereby amended to read as follows: 75-724. (a) Any person required to submit a sample pursuant to subsection (e) of K.S.A. 21-2511, and amendments thereto, upon conviction or adjudication shall pay a separate court cost of \$100 as a Kansas bureau of investigation DNA database fee. ~~convicted or adjudicated of an offense that, pursuant to K.S.A. 21-2511, and amendments thereto, requires submission of a DNA sample upon arrest, charging or placement in custody, shall pay a separate court cost of \$100 as a Kansas bureau of investigation DNA database fee upon conviction or adjudication.~~

(b) *The court shall order such fees regardless of whether the person’s DNA sample was already on file with the Kansas bureau of investigation at the time such person was arrested, charged or placed in custody.*

(c) *The court shall not lessen or waive such fees unless the court has determined such person is indigent and the basis for the court’s determination is reflected in the court’s order.*

~~(d)~~ (d) Such fees shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

~~(e)~~ (e) Disbursements from the Kansas bureau of investigation DNA database fee deposited into the DNA database fee fund of the Kansas bureau of investigation shall be made for the following:

- (1) Providing DNA laboratory services;
- (2) the purchase and maintenance of equipment for use by the laboratory in performing DNA analysis; and
- (3) education, training and scientific development of Kansas bureau of investigation personnel regarding DNA analysis.

~~(f)~~ (f) Expenditures from the DNA database fee fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

~~(g)~~ (g) All fees 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 entire amount in the state treasury to the credit of the DNA database fee fund, which is hereby established in the state treasury.

~~(h)~~ (h) Fees received into this fund shall be supplemental to regular appropriations to the Kansas bureau of investigation.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 23, by striking “is” and inserting “and 75-724 are”;

In the title, in line 12, after the semicolon, by inserting “fees for the Kansas bureau of investigation DNA database;”; also in line 12, after “28-176” by inserting “and 75-724”; in line 13, by striking “section” and inserting “sections”; and the bill be passed as amended.

HB 2656, as amended by House Committee of the Whole, be amended on page 307, after line 4, by inserting the following:

“(h) K.S.A. 60-252, and amendments thereto, concerning findings and conclusions by the court, except that when the findings and conclusions are made by a district magistrate judge, the time to file a motion for amended or additional findings is 14 instead of 28 days;”;

Also on page 307, in line 5, by striking “(h)” and inserting “(i)”; in line 7, by striking “(i)” and inserting “(j)”; in line 8, by striking “and relief from judgment or order, respectively” and inserting “, except that the time to file a motion for new trial or to alter or amend judgment when a judgment is rendered by a district magistrate judge is 14 instead of 28 days;

(k) K.S.A. 60-260, and amendments thereto, concerning relief from judgment or order”;

Also on page 307, in line 9, by striking "(j)" and inserting "(l)"; in line 11, by striking "(k)" and inserting "(m)";

On page 311, after line 35, by inserting the following: 7

"Sec. 207. K.S.A. 61-3304 is hereby amended to read as follows: 61-3304. *Except as modified by subsections (h) and (j) of K.S.A. 61-2912, and amendments thereto*, the provisions of K.S.A. 60-252, 60-259 and 60-260, and amendments thereto, shall apply to judgments entered under the code of civil procedure for limited actions where such provisions are not inconsistent with other provisions of the code.";

And by renumbering the remaining sections accordingly;

On page 325, in line 26, after "61-3301," by inserting "61-3304,";

In the title, in line 31, after "61-3301," by inserting "61-3304,"; and the bill be passed as amended.

HB 2668, as amended by House Committee of the Whole, be amended on page 112, by striking all in lines 1 through 43;

On page 113, by striking all in lines 1 through 29;

And by renumbering the remaining sections accordingly;

On page 213, by striking all in line 36 and inserting "provisions of subsection (f)(1) of section 308, and amendments thereto,";

On page 241, in line 15, by striking "21-4009, 21-"; in line 16, by striking "4010, 21-4011, 21-4012, 21-4013, 21-4014, 21-4016, 21-4017,";

In the title, in line 40, by striking "21-"; by striking all in line 41; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2638**, as amended by House Committee of the Whole, be passed.

Committee on **Public Health and Welfare** recommends **HB 2588**; **HB 2589**, as amended by House Committee, be passed.

The Committee on **Ways and Means** recommends **HB 2631**, as amended by House Committee, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL No. 2631," as follows:

"SENATE Substitute for HOUSE BILL No. 2631

By Committee on Ways and Means

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, June 30, 2016, and June 30, 2017, 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. 2009 Supp. 2-223, 12-5256, 40-3403, 55-193, 72-8814, 75-752, 75-2319, 75-6702, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-34,171, 79-4801 and 82a-953a and repealing the existing sections.";

and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, March 16, 2010.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

