

Journal of the Senate

THIRTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 9, 2011, 2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator Donovan was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

In the twenty-fifth chapter of Mathew we read about the judgment scene where Jesus identified with those to whom the righteous had ministered on earth. Perhaps if Jesus was on earth today He might have put it in contemporary terms:

I was a different color and you showed me respect.
I had AIDS and you cared for me.
I was a battered wife and you comforted me.
I was homeless and you took me in.
I was a pregnant teenager and you wept with me.
I was a nursing home resident and you visited me.
I was a single mother and you comforted me.
I was unemployed and you helped me.
I was a wounded veteran and you saluted me.

Lord, help us to be found among those to whom Jesus could speak these words.

I pray in the name of Jesus Christ,

AMEN

The pledge of allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 230, AN ACT concerning school districts; creating the relevant efficient academic learning education act; amending K.S.A. 72-8233 and repealing the existing sections; also repealing K.S.A. 72-6406, 72-6408, 72-6411, 72-6415, 72-6416, 72-6418, 72-6419, 72-6420, 72-6422, 72-6423, 72-6424, 72-6427, 72-6429, 72-6432, 72-6436, 72-

6437, 72-6444, 72-6446, 72-6447, 72-7105a, 72-8237 and 72-8238 and K.S.A. 2010 Supp. 72-3715, 72-3716, 72-6405, 72-6407, 72-6409, 72-6410, 72-6412, 72-6413, 72-6414, 72-6414a, 72-6414b, 72-6415b, 72-6417, 72-6421, 72-6425, 72-6426, 72-6428, 72-6430, 72-6431, 72-6433, 72-6433d, 72-6434, 72-6434b, 72-6435, 72-6438, 72-6439, 72-6439a, 72-6441, 72-6442b, 72-6443, 72-6445a, 72-6448, 72-6449, 72-6450, 72-6451, 72-6452, 72-6453, 72-6454, 72-6455, 72-6456, 72-6457, 72-6458, 72-6459, 72-64b01, 72-64c03, 72-8248, 72-8249, 72-8250, 72-8254, 72-9509 and 72-9609, by Committee on Federal and State Affairs.

SB 231, AN ACT establishing the prisoner review board and transferring powers and duties from the Kansas parole board; relating to individuals in the custody of the secretary of corrections; amending K.S.A. 22-3706, 22-3708, 22-3709, 22-3711, 22-3713, 22-3718, 22-3719, 22-3720, 22-4701, 60-4305 and 75-5202 and K.S.A. 2010 Supp. 22-3717, 74-9101, 75-4318, 75-5210a, 75-5217, 75-5266 and 77-603 and repealing the existing sections; also repealing K.S.A. 21-4602, 21-4603b, 21-4614, 21-4703 and 46-3201 and K.S.A. 2010 Supp. 21-4608, 21-4619, 22-3707 and 22-3717c, by Committee on Federal and State Affairs.

SB 232, AN ACT concerning taxation; relating to income tax rates, adjustment, procedure and requirements; sales and compensating use tax rates and distribution; amending K.S.A. 2010 Supp. 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **SB 228**.

Utilities: **SB 227**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2107**.

INTRODUCTIONS OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2107 was thereupon introduced and introduced by title.

FINAL ACTION ON CONSENT CALENDAR

HB 2003 having appeared on the Consent Calendar the required two full legislative days without objection from any member, was considered on final action.

HB 2003, AN ACT designating a part of K-18 highway as the Medal of Honor recipient Donald K. Ross memorial highway.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.
The bill passed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1824—

WHEREAS, Dr. Tom Trigg, Superintendent of Blue Valley Unified School District No. 229, has been selected by the Kansas Association of School Administrators as the 2011 Kansas Superintendent of the Year and was a final four candidate for 2011 national superintendent of the year; and

WHEREAS, After graduating from Shawnee Mission West High School in 1970, Dr. Trigg received a bachelor of arts degree in mathematics and physical education teaching from Ottawa University, a master's degree in educational administration from Emporia State University and a doctorate in education from the University of Kansas; and

WHEREAS, In 1974, Dr. Trigg commenced his teaching career as a math instructor at Shawnee Mission Northwest High School; in 1979, Dr. Trigg was selected to serve as principal of Gardner Edgerton High School; and in 1985, Dr. Trigg began serving as Assistant Superintendent of Gardner Edgerton School District. Dr. Trigg started his career with Blue Valley Schools as Assistant Superintendent of Administrative Services in 1996. In 2001, Dr. Trigg became Deputy Superintendent of Administrative Services for Blue Valley and served in that capacity until he was selected as the district's superintendent in 2004; and

WHEREAS, During Dr. Trigg's time as Superintendent of Blue Valley School District, student proficiency scores in reading have increased by nearly 15% and in mathematics by nearly 16%. Further, 97% of the students in the school district tested at or above the proficient level on the Kansas reading assessment and 96% of the students in the school district tested at or above the proficient level on the Kansas mathematics assessment; and students scoring exemplary in reading have risen from 43% to 56% and in mathematics from 35% to 52%. Additionally, the composite ACT score for Blue Valley School District is at an all time high of 25, with 86% of seniors taking the exam. Since implementation of the No Child Left Behind Act, all subgroups of all grades of all schools have attained adequate yearly progress, resulting in the only school district in the nation with 20,000 or more students to reach this achievement level. Moreover, in addition to his other responsibilities, Dr. Trigg created the Center for Advanced Professional Studies, which connects high school students with more than 230 businesses and 300 mentors in the community, and designed the program to be replicated throughout the nation: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Dr. Tom Trigg upon his selection as the 2011 Kansas Superintendent of the Year; and

Be it further resolved: That the Secretary of the Senate shall send two enrolled copies of this resolution to Senator Vratil.

On emergency motion of Senator Vratil **SR 1824** was adopted unanimously.

Senator Vratil introduced and congratulated Dr. Tom Trigg, Superintendent of Blue Valley School District, for being selected the 2011 Kansas Superintendent of the Year.

Dr. Trigg was acknowledged with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2184**, **HB 2205** be passed.

Also, **HB 2282**, as amended by House Committee, be amended on page 2, in line 21, by striking "The license fee shall not"; in line 22, by striking "exceed \$300."; and the bill be passed as amended.

SB 95 be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 95," as follows:

"Substitute for SENATE BILL NO. 95

By Committee on Assessment and Taxation

"AN ACT concerning taxation; relating to income tax rates, adjustment, procedure and requirements; sales and compensating use tax rates and distribution; amending K.S.A. 2010 Supp. 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections.";

and the substitute bill be reported without recommendation.

Committee on **Education** recommends **SB 51** be amended on page 1, in line 5, by striking all after "(a)"; by striking all in lines 6 through 11 and inserting "All school districts shall consider adopting a policy regarding the administration of over-the-counter medications to students enrolled in such school district. If such a policy is adopted the board of education may designate which over-the-counter medications may be administered pursuant to such policy, and may decide whether the written authorization of a parent or legal guardian shall be required prior to the administration of such over-the-counter medication."; in line 12, after "require" by inserting "or prohibit requiring"; in line 13, by striking "dispensing" and inserting "administering"; in line 16, by striking "dispense" and inserting "administer"; in line 18, by striking "dispense" and inserting "administer"; following line 24 by inserting:

"(e) Any policy adopted pursuant to this section shall be reviewed by the board of education of such school district at least once every three years. Upon completing its review, the board of education shall amend the policy, if necessary, and either adopt such policy, as amended or without amendment, or rescind such policy.";

And by redesignating the remaining subsections accordingly; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2013** be passed.

Also, the following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Superintendent, Kansas Highway Patrol: K.S.A. 74-2105

Ernest Garcia, serves at the pleasure of the Governor

Committee on Federal and State Affairs begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Member, Lottery Commission: K.S.A. 74-8709

Mike King, serves at the pleasure of the Governor

Committee on **Judiciary** recommends **SB 81** be amended by substituting a new bill

to be designated as "Substitute for SENATE BILL NO. 81," as follows:

"Substitute for SENATE BILL NO. 81

By Committee on Judiciary

"AN ACT concerning children and minors; relating to temporary custody; permanency planning; adoption; amending K.S.A. 2010 Supp. 38-2243, 38-2263 and 38-2270 and repealing the existing sections."; and the substitute bill be passed.

Committee on **Ways and Means** recommends **SB 154** be passed.

Also, **SB 118** be amended on page 1, in line 30, by striking "50" and inserting "60"; in line 35, by striking "50" and inserting "40";

On page 2, in line 1, by striking "50" and inserting "60"; and the bill be passed as amended.

CHANGE OF REFERENCE

The President withdrew **Sub SB 95** from the Calendar under the heading of General Orders, and referred the bill to the Committee on **Assessment and Taxation**.

COMMITTEE OF THE WHOLE

On motion of Senator Emler, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Huntington in the chair.

On motion of Senator Huntington the following report was adopted:

Recommended: **SB 152, SB 182; HB 2057** be passed.

A motion by Senator McGinn to amend **SB 152** failed and the following amendment was rejected; on page 2, in line 6, after the semicolon by inserting "or"; in line 10 by striking "; or" by striking all in lines 11 through 13; in line 14 by striking all before the period

SB 185, SB 213, SB 214; HB 2175 be amended by the adoption of the committee amendments, and the bills be passed as amended.

SB 196 be amended by the adoption of the committee amendments, be further amended by Senator King, on page 7, by striking all in line 36 and inserting:

"(a) (1) The secretary shall determine and from time to time shall redetermine the rate at which moneys shall be credited to the IMPACT program repayment fund in order to satisfy all bond repayment obligations which have been incurred to finance program costs for IMPACT programs, which shall be referred to as the debt service rate, and the rate at which moneys shall be credited to the IMPACT program services fund in order to finance program costs that are not financed by bonds, which shall be referred to as the direct funding rate. The total of the debt service rate and the direct funding rate shall be the combined rate. Each rate so determined shall be certified to the secretary of revenue. The combined rate determined under this subsection shall not exceed 2%.

(2) Upon receipt of the rates determined and certified under subsection (a)(1), the secretary of revenue shall apply daily the combined rate to that portion of the moneys withheld from the wages of individuals and collected under the Kansas withholding and declaration of estimated tax act K.S.A. 79-3294 et seq., and amendments thereto. The amount so determined shall be credited as follows: (A) The portion attributable to the debt service rate shall be credited to the IMPACT program repayment fund, and (B) the remaining portion shall be credited to the IMPACT program services fund.

(3) The aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed the amount which results when the rate of 2% is applied to all money withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.

(4) The provisions of this subsection shall remain in effect prior to July 1, 2012.

(b) Commencing July 1, 2012, the secretary of revenue shall apply a";

On page 8, in line 7, by striking "(b)" and inserting "(c)";

On page 25, in line 20, by striking "74-"; in line 21, by striking "50,115(c)" and inserting "74-50,115(e)"

Senator King moved to further amend **SB 196**, on page 2, after line 2, by inserting by inserting: "(c) The secretary shall annually make a report on activities of the department related to administration of the job creation program fund and the funding of projects therefor. Such report shall contain specific and aggregate information regarding all expenditures from the fund, projects receiving funds, the amount of funds expended for each project, the reason and purpose described in subsections (a)(1) through (a)(8) for which funding was approved for each project, the number and characteristics of jobs created or retained in Kansas, the number of such jobs created or retained which do not continue to exist and the circumstances and effect of such discontinuance, and any other accomplishments related thereto. The secretary shall present such report to the president of the senate, the speaker of the house, the senate minority leader, the house minority leader, the house committee on taxation, the senate committee on assessment and taxation, the senate committee on commerce and the house committee on commerce and economic development during January of each year.";

On page 9, in line 37, by striking all after "discontinuances"; by striking all in line 38; in line 39, by striking "funding of projects thereunder" and the **SB 196** be passed as further amended.

A motion by Senator Holland to amend **SB 196** failed and the following amendment was rejected: on page 13, in line 38, by striking all after the period; by striking all in line 39;

On page 14, by striking all in lines 1 through 16; and in line 17, by striking all before "The"

FINAL ACTION BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Emler an emergency was declared by a 2/3 constitutional majority, and **SB 152**, **SB 182**, **SB 185**, **SB 196**, **SB 213**, **SB 214**; **HB 2057**, **HB 2175** were advanced to Final Action and roll call.

SB 152, AN ACT concerning wildlife; relating to hunting; amending K.S.A. 2010 Supp. 32-1002 and repealing the existing section.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Reitz.

Absent or Not Voting: Donovan.

The bill passed.

SB 182, AN ACT concerning fire insurance premiums; relating to fire marshal fee fund, emergency medical services board operating fund and fire service training program fund; amending K.S.A. 2010 Supp. 75-1514 and repealing the existing section.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeier, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

SB 185, AN ACT concerning insurance; designating trust companies as trustees; amending K.S.A. 2010 Supp. 40-2a20 and repealing the existing section.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeier, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

SB 196, AN ACT concerning taxation; relating to IMPACT program, withholding, requirements, limitations; income tax deductions, expensing of investment expenditures; income tax credits; sales tax exemptions; creating job creation program fund, administration, expenditures; amending K.S.A. 2010 Supp. 74-50,104, 74-50,106, 74-50,107, 74-50,109, 74-50,110, 74-50,111, 74-50,132, 79-32,160a, 79-32,206 and 79-3606 and repealing the existing sections; also repealing K.S.A. 2010 Supp. 74-50,151 and 74-50,152.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 1, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Huntington, Kelly, Kelsey, King, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeier, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, Hensley, Holland, Kultala.

Present and Passing: Haley.

Absent or Not Voting: Donovan.

The bill passed, as amended.

EXPLANTION OF VOTE

MR. PRESIDENT: I vote NO on **Senate Bill 196**. Although I agree with the

changes to allow expensing and eliminate some of the exiting business tax credits, I do not agree with offering very different investment level thresholds for the High Performance Incentive Program – allowing businesses in most counties to get the credit for the portion of a qualified business facility investment which exceeds \$50,000 but only allowing the portion that exceeds \$1 million for businesses in Douglas, Johnson, Leavenworth, Sedgwick, Shawnee or Wyandotte counties – MARCI FRANCISCO

MR. PRESIDENT: — I vote NO on **SB 196**.

Our state's economic incentives for both small and large businesses are working very well with great success. HPIP, IMPACT, KEOIF, the Business and Job Development Credit, and the Machinery and Equipment Tax Credit programs should continue as they are.

Based on testimony from business people in committee, there are grave concerns that the proposed Expensing model will be paid for by the elimination and changing of current programs that are working. They have also told us they believe the Expensing model will not be beneficial to as many companies as proposed. They believe this will be especially true for smaller companies that don't have the expertise to deal with the complications of Expensing.

Our existing economic incentives based on real life examples are better suited for businesses across the board.

There are a few old adages that come to mind when I consider this bill. One is, “A bird in the hand is worth two in the bush.” Another, “You can't buy a pig a poke.” And yet another, “If it ain't broke, don't fix it.”

For these reasons, I vote NO. – ANTHONY HENSLEY

MR. PRESIDENT: I vote no on **SB 196** because my community is gravely concerned with the proposed changes to the current economic development tools available in the State of Kansas. These tools in their current form have not only brought new capital investment to our community but have allowed retraining dollars to be used which in turn has helped retain the existing workforce as well as adding new. Raising the threshold on HPIP in the larger metro areas will be harmful to our economic development efforts. And based on the advice of our economic development professionals the proposed Expensing model which would be “paid” for by the elimination and changing of the current economic development tools will not be beneficial to as many companies as proposed. I believe this will especially be the case with smaller companies as they may not have the expertise to deal with the proposed formula. - KELLY KULTALA

SB 213, AN ACT concerning lightweight roadable vehicles; relating to registration; uniform traffic code; property tax exemptions; amending K.S.A. 2010 Supp. 8-126 and 8-1486 and 79-201k and repealing the existing sections.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken,

Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

SB 214, AN ACT concerning the groundwater management district act; amending K.S.A. 2010 Supp. 82a-1021 and repealing the existing section.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

HB 2057, AN ACT concerning forensic examinations; relating to admissibility; amending K.S.A. 2010 Supp. 22-3437 and repealing the existing section.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

HB 2175, AN ACT repealing K.S.A. 68-1038, 75-5002 and 75-5003; relating to roads, highways and scenic byways.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

On motion of Senator Emler, the Senate adjourned until 2:30 p.m, Thursday, March 10, 2011.

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

PAT SAVILLE, *Secretary of the Senate.*

