

Journal of the House

FORTY-NINTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, March 24, 2003, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 123 members present.
Reps. Davis and O'Neal were excused on excused absence by the Speaker.

Prayer by Chaplain Chamberlain:

Lord God, where else can we turn but to you at every time and in every circumstance. In the triumphs of life, you are there to increase our joy. At the darkest moments, you are there to comfort and guide us. You never leave us alone. You never leave us without the blessing of your holy presence. You are our ever-present help in time of need.

Lord, we need you in these difficult days for our state, our country and our world. We need you to remind us that you are with us already, that there is nowhere we can go that is apart from you. Help us to kneel before you with contrite and receptive hearts. Show us the ways in which your grace can transform the vexing problems that face us into opportunities to live out your command that we love one another.

Lord, be with the families of the soldiers who've lost their lives in Iraq. Comfort them in their grief. Bless those who are held as prisoners. As they walk through the valley of shadows, give them courage and protect them from those who would harm them. Hear our prayers, merciful and ever—present God. Amen.

The Pledge of Allegiance was led by Rep. Winn.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2456.**
Commerce and Labor: **HB 2452.**
Education: **HB 2453.**
Local Government: **HB 2455.**
Taxation: **HB 2454.**

MESSAGE FROM THE GOVERNOR

March 19, 2003

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Order No. 2003-06 for your information.

EXECUTIVE ORDER NO. 2003-06
Continuing Governor's Military Affairs Council

KATHLEEN SEBELIUS
Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, pursuant to House Rule 2311, House Rule 3905, requiring the printing and distribution of appropriation bills 48 hours before consideration, was suspended for the purpose of hearing **HB 2444**.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Phelps, **HR 6018**, A resolution in memory of Bill Levinson, was adopted.

There being no objection, the following remarks by Rep. Phelps are spread upon the Journal:

Today I am proud to stand before this body as we pay tribute to former State Representative Bill Levinson, a man who spent much of his life sharing his time and talents with others, especially in the area of public service.

Bill Levinson's entire life was about public service. From his service to our country first in the Navy during World War II, to the Army in the Korean War, to his thirty years working for Kansas Department of Transportation, to his service for the citizens of Junction City as a City Commission and Mayor, to his service in the Kansas House of Representatives. Bill Levinson's life was about making his community, the State of Kansas and our nation a better place.

Although public service occupied much of his life, Bill's greatest source of joy was his family. He often spoke with great pride of his children and grandchildren. To Inge and the entire Levinson family, I want to thank you for sharing Bill with us for the past couple of sessions. It was an honor to serve with him.

There being no objection, the following remarks by Rep. Craft are spread upon the Journal:

Bill Levinson was a man who made things happen. For many years, more than twenty I think, he sponsored an annual car show in Junction City. This event became very popular with car buffs all over the state, and beyond.

He was very instrumental in the campaign over fifteen years to raise funds to erect a monument to the Buffalo Soldiers. This beautiful bronze monument now stands on Eighteenth Street in Junction City for all to enjoy.

Last year as a member of the House, Representative Levinson was very active in the redistricting discussions that were held.

Bill Levinson served on the city commission for six years, the last year overlapping with his first year as a state representative. He also served one year as mayor of Junction City.

During his time on the city commission, he was known for walking the streets of the business district and dropping in to visit casually with business owners, encouraging them to paint or fix up their store fronts in order to help create a better-looking business district. He also visited with employees about their concerns.

Bill and Inge Levinson operated very much as a team. Their home is a favorite stop when people drive around at Christmas time to view the Christmas lights. Their large two-story home is completely outlined very tastefully in green lights, including an upstairs stairway which is visible through a second-floor window and a gazebo in the yard.

Our Ladies' Reading Club in Junction City, one of the oldest federated clubs for women west of the Mississippi, owns its own clubhouse. Together, Bill and Inge Levinson have served as the caretakers for the clubhouse for many years.

Another example of their teamwork was campaigning door-to-door for the representative race. Bill was a hard worker, hardly missing a door in his district . . . and Inge was right there with him.

Because of this teamwork and Inge's close involvement with issues that Bill was dealing with, the local Democratic Party in Geary County chose Inge to succeed her husband and then run in his place when Bill died in early October. She stepped up to the plate and accepted the challenge with grace and dignity under difficult personal circumstances.

Bill was a mover and a shaker, and he will be missed.

Rep. Phelps introduced Inge Levinson, wife of Bill Levinson, and other members of his family who accompanied her to the House.

CONSENT CALENDAR

No objection was made to **SB 178** appearing on the Consent Calendar for the first day.

No objection was made to **Sub. SB 204** appearing on the Consent Calendar for the second day.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Hutchins, the House nonconcurred in Senate amendments to **HB 2106** and asked for a conference.

Speaker Mays thereupon appointed Reps. Hutchins, Judy Morrison and Peterson as conferees on the part of the House.

On motion of Rep. Aurand, the House went into Committee of the Whole, with Rep. P. Long in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. P. Long, Committee of the Whole report, as follows, was adopted:

Recommended that **HB 2448; SB 37** be passed.

Committee report to **SB 134** be adopted; and the bill be passed as amended.

Committee report to **SB 82** be adopted; also, on motion of Rep. Barbieri-Lightner be amended on page 5, in line 34, by striking "and" and inserting a comma; also in line 34, after "departments" by inserting "and any other administrator with district-wide responsibilities"; and **SB 82** be passed as amended

Committee report to **HB 2241** be adopted; and the bill be passed as amended.

Committee report to **HB 2404** be adopted; and the bill be passed as amended.

Committee report to **SB 15** be adopted; also, on motion of Rep. Pauls be amended on page 1, in line 34, by striking "intentional" and inserting "willful"; and **SB 15** be passed as amended.

Committee report to **SB 151** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations** recommends **SB 240** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

The Committee on **Corrections and Juvenile Justice** recommends **SB 63** be passed.

The Committee on **Corrections and Juvenile Justice** recommends **SB 27**, as amended by Senate Committee, be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL No. 27," as follows:

"HOUSE Substitute for SENATE BILL No. 27

By Committee on Corrections and Juvenile Justice

"AN ACT concerning the civil commitment of sexually violent predators; amending K.S.A. 2002 Supp. 59-29a01, 59-29a04, 59-29a06, 59-29a07, 59-29a08 and 59-29a10 and repealing the existing sections."; and the substitute bill be passed.

(**H. Sub. for SB 27** was thereupon introduced and read by title.)

The Committee on **Education** recommends **SB 57** be passed.

The Committee on **Education** recommends **SB 55** be amended on page 1, in line 22, after the stricken material by inserting " , as well as the day of the week and the week of the month. Such resolution shall also specify the alternate meeting day and time in the event that the regular meeting date occurs on a Sunday or on a legal holiday or on a holiday specified by the board"; in line 25, after the period by inserting "If the board cancels a regular meeting because of an emergency, within 24 hours of such cancellation, the board shall establish and give notice of the new meeting date and time."; and the bill be passed as amended.

The Committee on **Education** recommends **Sub. for SB 83** be amended on page 14, in line 2, by striking "19" and inserting "20"; by striking all in lines 7 through 38 and inserting the following:

"New Sec. 19. Sections 19 through 22, and amendments thereto, shall be known and may be cited as the school budgeting best practices reform act.

New Sec. 20. (a) When preparing the budget for the ensuing budget year of the school district, the board shall budget to expend only the amount estimated to be spent from each fund of the school district.

(b) Whenever it is otherwise authorized by law that unexpended moneys in a fund of a school district may be carried forward into such fund for the next budget year, the budget of the school district shall reflect any ending balance in such fund which the school district estimates will be carried forward to the next budget year.

New Sec. 21. (a) For the 2004-2005 school year, and any succeeding school year, the state department of education shall prepare and prescribe standards and formats for an at-a-glance budget for all school districts. The state department of education's standards and formats shall be developed directly from the best practices and standards established by the government finance officers association, the association of school business officials and other best practices and standards for an at-a-glance budget.

(b) For the 2004-2005 school year, and any succeeding school year, all school districts shall prepare and publish the at-a-glance budget based on the state department of education standards and formats. Such at-a-glance budget shall include internet website addresses for the building-by-building reports and results compiled by the department of education.

(c) On or before August 5 of each such year, the board shall prepare a proposed full school budget document and the at-a-glance budget. Prior to adopting such proposed budget, the board shall meet for the purpose of answering and hearing testimony of taxpayers relating to the proposed budget. The board shall give at least 10 days notice of the time and place of the meeting by publication in a newspaper of general circulation within the district. Such notice shall include where the public can obtain the at-a-glance and full proposed budget documents. Such documents shall be on file at the administrative offices of the school district. Copies of such documents shall be available upon request. If necessary, boards shall have the ability to estimate revenues and expenditures for the purpose of preparing this proposed budget for the public hearing.

New Sec. 22. (a) By the 2004-2005 school year, the department of education shall create a budget format document that conforms to the budget award standards and criteria of the government finance officers association and the association of school business officials. When establishing this budget format, the department of education shall directly incorporate the compatible features of the government finance officers association and association of school business officials budget award criteria and establish new criteria based on government finance officers association and association of school business officials standards whenever the individual criteria is different. As part of such budget format, the department of education shall establish checklists of additional criteria and standards of the government finance officers association and association of school business officials that are needed for schools to have a best practices budget that conforms to the requirements of this section.

(b) In addition to the government finance officers association and association of school business officials budget award standards and criteria, such budget format shall include, but not be limited to, a separate table outlining the salary and wage expenditures for all district personnel divided into the following categories: (1) Certified and non-certified administrators; (2) teachers and other certified employees; (3) classified employees; (4) substitutes and other temporary employees. For categories (1), (2) and (3), the school districts shall report full-time employee positions and average salaries.

(c) For the 2005-2006 school year, and any succeeding school year, all school districts shall comply with the budget format and standards established by the state department of education pursuant to subsection (a). The department of education shall provide technical advice and assistance to school districts concerning the budget format and related standards and criteria.

(d) The state board of education shall develop and adopt rules and regulations to insure that all school districts will comply with the required budget format, standards and criteria and to implement the provisions of this section.

(e) Nothing in this act shall be construed to limit the ability of school districts to develop and publish additional budget materials and documents that go above and beyond the standards, criteria and budget format required by the department of education.

(f) For the purposes of complying with such budget format, in any year that a school district obtains a budget award from either the government finance officers association or association of school business officials, that school district's budget shall be considered in compliance with the requirements of this section.

Sec. 23. K.S.A. 12-1663 is hereby amended to read as follows: 12-1663. (a) Where any public agency receives federal aid through any federal agency for any purpose to be used alone or with funds of the public agency, such federal aid may be expended without regard to budget limitations and over, above or outside the budget, and such expenditures shall not be charged against the budget of the current or any other budget year of the public agency; ~~and~~. Where a public agency spends from budgeted funds and later is reimbursed by federal aid, such expenditure from budgeted funds shall be a reimbursed expense and if received after the budget year, shall increase the current budget to the same amount unless the budget had anticipated and included the reimbursement as income.

(b) *In addition to the requirements of subsection (a), a school district shall include all revenues and expenditures, including, but not limited to, federal aid and other grants, gifts and miscellaneous income, in all budget documents prepared by the school district, including documents submitted to the department of education. In order to account for such revenues and expenditures separately, each school district shall budget for federal aid and other grants and gifts, other than scholarships, received, which funds shall not be subject to limitations on the expenditure of moneys in such funds.*

Sec. 24. K.S.A. 72-8223 is hereby amended to read as follows: 72-8223. (a) The secretary of social and rehabilitation services shall pay tuition to the board of education of any school district for children in any institution under the jurisdiction of the secretary who attend any of the schools of such school district. The amount of tuition shall be determined on the basis of the average operating cost per pupil of the school district, less the proportionate amount of state aid received by such school district as determined by the state board of education. *Whenever feasible, the board of education of such school district shall work with the department of social and rehabilitation services to maximize federal matching funds.*

(b) Payments of tuition received under this section by the board of education of any school district for attendance of children at school in regular educational programs shall be deposited in the ~~general fund of the school district and considered as reimbursements of the district for the purpose of the school district finance and quality performance act.~~ *tuition reimbursement fund.*

(c) *There is hereby established in every district a fund which shall be called the tuition reimbursement fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a district attributable to the costs of providing educational services to a child in an institution under the jurisdiction of the secretary who attends the school shall be paid from the tuition reimbursement fund.*;

And renumber the remaining sections accordingly;

Also on page 14, in line 39, after "K.S.A." by inserting "12-1663,"; in line 40, after "72-8209," by inserting "72-8223,";

On page 1, in the title, in line 10, before "amending" by inserting "enacting the school budgeting best practices reform act,"; in line 11, after "K.S.A." by inserting "12-1663,"; in line 12, after "72-8209," by inserting "72-8223,"; and the substitute bill be passed as amended.

The Committee on **Education** recommends **SB 119** be amended on page 1, after line 16, by inserting the following:

"Section 1. K.S.A. 72-5438 is hereby amended to read as follows: 72-5438. (a) Whenever a teacher is given written notice of intention by a board to not renew or to terminate the contract of the teacher as provided in K.S.A. 72-5437, and amendments thereto, the written notice of the proposed nonrenewal or termination shall include: (1) A statement of

the reasons for the proposed nonrenewal or termination; and (2) a statement that the teacher may have the matter heard by a hearing officer upon written request filed with the clerk of the board of education or the board of control or the secretary of the board of trustees within 15 calendar days from the date of such notice of nonrenewal or termination.

(b) ~~Upon~~ *Within 10 calendar days after* the filing of any written request of a teacher to be heard as provided in subsection (a), ~~within 10 calendar days thereafter~~, the board shall notify the commissioner of education that a list of qualified hearing officers is required. Such notice shall contain the mailing address of the teacher. Within 10 days after receipt of notification from the board, the commissioner shall provide to the board and to the teacher, a list of ~~nine~~ *five* randomly selected, qualified hearing officers.

(c) Within *5 five* days after receiving the list from the commissioner, each party shall eliminate ~~four~~ *two* names from the list, and the remaining individual on the list shall serve as hearing officer. In the process of elimination, each party shall eliminate no more than one name at a time, the parties alternating after each name has been eliminated. The first name to be eliminated shall be chosen by the teacher; within *5 five* days after the teacher receives the list. The process of elimination shall be completed within *5 five* days thereafter.

(d) Either party may request that one new list be provided within *5 five* days after receiving the list. If such a request is made, the party making the request shall notify the commissioner and the other party, and the commissioner shall generate a new list and distribute it to the parties in the same manner as the original list.

(e) In lieu of using the process provided in subsections (b) and (c), if the parties agree, they may make a request to the American Arbitration Association for an arbitrator to serve as the hearing officer. Any party desiring to use this alternative procedure shall so notify the other party in the notice required under subsection (a). If the parties agree to use this procedure, the parties shall make a joint request to the American Arbitration Association for a hearing officer within 10 days after the teacher files a request for a hearing. If the parties choose to use this procedure, the parties shall each pay one-half of the cost of the arbitrator and of the arbitrator's expenses.

(f) The commissioner of education shall compile and maintain a list of hearing officers comprised of residents of this state who are attorneys at law. Such list shall include a statement of the qualifications of each hearing officer.

(g) Attorneys interested in serving as hearing officers under the provisions of this act shall submit an application to the commissioner of education. The commissioner shall determine if the applicant is eligible to serve as a hearing officer pursuant to the provisions of subsection (h).

(h) An attorney shall be eligible for appointment to the list if the attorney has: (1) Completed a minimum of 10 hours of continuing legal education credit in the area of education law, due process, administrative law or employment law within the past five years; or (2) previously served as the chairperson of a due process hearing committee prior to the effective date of this act. An attorney shall not be eligible for appointment to the list if the attorney has been employed to represent a board or a teacher in a due process hearing within the past five years.

Sec. 2. K.S.A. 72-5440 is hereby amended to read as follows: 72-5440. (a) For appearing before the hearing officer at a hearing, witnesses who are subpoenaed shall receive \$5 per day and mileage at the rate prescribed under K.S.A. 75-3203, and amendments thereto, for miles actually traveled in going to and returning from attendance at the hearing. The fees and mileage for the attendance of witnesses shall be paid by the party calling the witness, except that fees and mileage of witnesses subpoenaed by the hearing officer shall be paid by the board. Witnesses voluntarily appearing before the hearing officer shall not receive fees or mileage for attendance at the hearing.

(b) The hearing officer shall be paid ~~\$240 per diem compensation, or a portion thereof,~~ *for each day of actual attendance at the hearing or for any meeting held for the purpose of performing compensation for time spent in actual attendance at the hearing and for time spent in performance of the hearing officer's official duties.* In addition to compensation, the hearing officer shall be paid subsistence allowances, mileage, and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The costs for the services of the hearing officer shall be paid by the board.

(c) Testimony at a hearing shall be recorded by a certified shorthand reporter. The cost for the certified shorthand reporter's services shall be paid by the board. The ~~transcript testimony~~ shall be transcribed if the decision of the hearing officer is appealed to the district court, or if either party requests transcription. The appellant or the party making the request shall pay for the cost of transcription. If both parties jointly request that the ~~transcript testimony~~ be transcribed at the hearing level, the parties shall each pay one-half of the cost of transcription.

(d) Each party shall be responsible for the payment of its own attorney fees.

(e) All costs of a hearing which are not specifically allocated in this section shall be paid by the board.”;

By renumbering the remaining sections accordingly;

On page 8, in line 12, after “K.S.A.” by inserting “72-5438, 72-5440.”;

On page 1, in the title, in line 9, by striking all after “teachers”; in line 10, by striking all before the semicolon; in line 12, after “K.S.A.” by inserting “72-5438, 72-5440.”; and the bill be passed as amended.

The Committee on **Education** recommends **SB 120** be amended on page 3, in line 10, by striking “and”; in line 13, before the period by inserting “; and

(C) under the same pricing provisions established in federal, national or other state contracts facilitated by a federal or local governmental entity or agency, subject to:

(i) Agreement of the vendor to honor the contract prices; and

(ii) approval by the board of education for expenditures in an amount greater than \$20,000”; and the bill be passed as amended.

The Committee on **Education** recommends **HR 6016** be amended on page 2, in line 19, after “districts” by inserting “and parents”; and the resolution be adopted as amended.

The Committee on **Environment** recommends **SB 155**, as amended by Senate Committee, be amended on page 1, in line 24, following “that” by inserting “:

(1)”;

Also on page 1, also in line 24, by striking “and,” and inserting “, including, but not limited to, bumpers for boat docks or boats, playground equipment, silo covers, traffic control, feed bunks, water tanks, windbreaks constructed of baled tires or in a manner consistent with rules and regulations of the secretary, erosion control on the face of an earthen dam and stabilization of soil or sand blow-outs caused by wind; and

(2)”;

Also on page 1, in line 38, by striking “, and”; in line 39, by striking all preceding “65-3424b” and inserting “or”; in line 42, by striking “listed in” and inserting “pursuant to”;

On page 3, in line 18, by beginning a new paragraph preceding “(b)”;

in line 32, by striking “or”; in line 34, following “or” by inserting “(E) the final disposal of small numbers of whole, unprocessed waste tires in landfills if such tires are intermingled with other solid waste and retrieval of such tires would be hazardous; or”; in line 36, by striking the comma; in line 37, by striking all preceding “65-3424b” and inserting “or”;

On page 4, in line 31, by striking all following “(e)”;

in line 32, by striking all preceding “person” and inserting “No”;

in line 36, by striking the semicolon; in line 41, following the stricken material, by inserting “, except that.”;

On page 5, in line 20, by striking the semicolon and inserting a colon; following line 24, by inserting:

“(6) a watershed district may perform one or more of the following to facilitate a beneficial use of waste tires: (A) Operate a waste tire collection center on the premises of a watershed district project or work of improvement; (B) operate a waste tire processing facility on the district's property; or (C) act as a waste tire transporter to transport waste tires to the district's property.”;

Also on page 5, in line 25, by striking “(6)”;

by striking all in line 27; in line 28, by striking all preceding “used” and inserting:

“(7) a person may operate a waste tire collection center if: (A) Fewer than 1,500”;

Also on page 5, in line 29, by striking “(2)” and inserting “(B)”;

in line 32, by striking “may operate a waste tire collection center”;

in line 33, by striking “(7)” and inserting “(8)”;

in line 42, by striking “(8)” and inserting “(9)”;

also in line 42, preceding “transporter” by inserting “waste tire”;

On page 6, in line 6, by striking all following "65-3407" and inserting "or"; in line 11, by striking "(9)" and inserting "(10)";

On page 7, in line 12, preceding "illegally" by inserting "or"; in line 16, by striking the semicolon; in line 17, following the stricken material, by inserting a semicolon; in line 23, by striking "percent" and inserting "%"; in line 33, by striking "K.S.A. 65-3415(g)" and inserting "subsection (g) of K.S.A. 65-3415";

On page 10, in line 8, by striking the semicolon and inserting a comma;

In the title, in line 10, by striking "hazardous"; and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was thereupon introduced and read by title:

HB 2457, An act concerning the senior pharmacy assistance program; authorizing certain rules and regulations; prescribing powers, duties and functions for the secretary of aging; amending K.S.A. 2002 Supp. 75-5961 and repealing the existing section; also repealing K.S.A. 2002 Supp. 75-5962, by Committee on Appropriations.

REPORT ON ENROLLED BILLS

HB 2016, **HB 2017**, **HB 2089**, **HB 2191**, **HB 2193** reported correctly enrolled, properly signed and presented to the governor on March 24, 2003.

REPORT ON ENROLLED RESOLUTIONS

HR 6018 reported correctly enrolled and properly signed on March 24, 2003.

On motion of Rep. Aurand, the House adjourned until 10:30 a.m., Tuesday, March 25, 2003.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

