

Journal of the Senate

TWENTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 20, 2003—2:30 p.m.

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

Heavenly Father,

Unfortunately, the word “politician” has a negative connotation to many people. It is my belief that politicians can attain the characteristics this acrostic suggests:

P-Patient with all people
O-Obedient to God
L-An effective Leader
I-Full of Integrity
T-Devoted to the Truth
I-Innocent of all wrong doing
C-Courageous in the face of evil
I-Intelligent
A-Able to do the job
N-Noble in performing duty

I pray, O God, that all politicians will endeavor to inculcate these virtues which the word POLITICIAN can stand for.

I pray in Jesus' Name,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 243, An act concerning the uniform controlled substances act; amending K.S.A. 65-4111 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **SB 241**.
Commerce: **HB 2106**.
Elections and Local Government: **HB 2045**.
Natural Resources: **Sub HB 2219**.
Financial Institutions & Insurance: **HB 2224**.
Judiciary: **HB 2165**.
Public Health and Welfare: **HB 2155**.
Transportation: **HB 2120**.
Ways and Means: **SB 240, SB 242**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2017, HB 2179**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2017, HB 2179 were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Steineger and Brownlee, Adkins, Allen, Barnett, Barone, Brungardt, Buhler, Buntten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1817—

A RESOLUTION congratulating and commending Chervis Bass and Jim Medina as 2002 Milken Family Foundation National Education Award recipients.

WHEREAS, Chervis Bass, a fourth grade teacher at Edwardsville Elementary School, and Mark James “Jim” Medina, an elementary classroom teacher at Havencroft Elementary School in Olathe, have been selected to receive Milken Family Foundation National Educator Awards; the awards include an unrestricted grant of \$25,000 plus being honorees at the foundation’s national education conference; and

WHEREAS, The Milken Family Foundation National Educator Awards were established in the early 1980’s to address the crisis in American education by rewarding educators’ achievements, enhancing their resources and advancing their professional interests. The awards provide public recognition and financial rewards to elementary and secondary school teachers. Originating in California, the program has grown to include 46 states, and, including the 2002 recipients, has benefited nearly 19,000 outstanding educators; and

WHEREAS, Chervis Bass, who has a bachelor of science degree in elementary education from Saint Mary College and a master of science degree in learning disabilities from the University of Kansas, has been teaching at Edwardsville Elementary School since 1994. Her excellence in her profession has caused her to receive a Target Teacher’s Scholarship, 1998-1999; selection as the Outstanding Teacher of the Year for Unified School District 204, 1999-2000; and district nominee for Kansas Teacher of the Year, 2002. She was an Educate America 2000 Subgrant Writer recipient and administrator of the funding for “Project Connections” and the district recipient of an Action Research Award for “Class Wide Peer Tutoring, Does it Work?” for 1999-2000. Her students are excited about learning and are always engaged in whatever activity is happening in the classroom; and

WHEREAS, Jim Medina, who has two bachelor of science degrees plus a master of arts degree, has been a teacher at Havencroft Elementary School for 13 years. Known as a skilled teacher who involves all of his students in the subject at hand, he has been honored by his peers by being named to and attending the District Leadership Academy, 1998-1999; named Havencroft Master Teacher, 2000-2001; selected as the Olathe District Elementary Teacher of the Year, 2001-2002; qualified as a Kansas Teacher of the Year-Region 3 semi-finalist, 2001-2002; and as a member on the Havencroft Building Level Team. He is one of the few teachers who have completed an application for National Teacher Certification. He is described as exemplifying those qualities and characteristics by which we would want our own children taught: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Chervis Bass and Jim Medina for being selected to receive Milken Family Foundation National Educator Awards; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Dr. Robert J. Van Maren, Superintendent, Bonner Springs USD 204, P.O. Box 435, Bonner Springs, KS 66012-0435 for presentation to Chervis Bass and five enrolled copies of this resolution to Dr. Ron Wimmer, Superintendent, Olathe USD 233, 14160 Black Bob Road, Olathe, KS 66063-2000 for presentation to Jim Medina.

On emergency motion of Senator Steineger **SR 1817** was adopted unanimously.

President Kerr introduced and congratulated Chervis Bass and Jim Medina as recipients of the 2002 Milken Family Foundation National Education Award.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 147** be amended on page 5, after line 3, by inserting the following:

“(12) The board of county commissioners of Shawnee county may submit the question of imposing a countywide retailers’ sales tax at the rate of .25% and pledging the revenue received therefrom to the city of Topeka for the purpose of financing the costs of rebuilding the Topeka boulevard bridge and other public infrastructure improvements associated with such project to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such project.”;

On page 6, after line 25, by inserting the following:

“Sec. 2. K.S.A. 12-192 is hereby amended to read as follows: 12-192. (a) Except as otherwise provided by subsection (b), (d) or (h), all revenue received by the director of taxation from a countywide retailers’ sales tax shall be apportioned among the county and each city located in such county in the following manner: (1) One-half of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year, and (2) $\frac{1}{2}$ of all revenue received by the director of taxation from such countywide retailers’ sales tax shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county, except that no persons residing within the Fort Riley military reservation shall be included in the determination of the population of any city located within Riley county. All revenue apportioned to a county shall be paid to its county treasurer and shall be credited to the general fund of the county.

(b) (1) As an alternative and in lieu of the apportionment formula provided in subsection (a), all revenue received by the director of taxation from a countywide retailers’ sales tax imposed within Johnson county at the rate of .75% or 1% after the effective date of this act may be apportioned among the county and each city located in such county in the following manner: (A) The revenue received from the first .5% rate of tax shall be apportioned in the manner prescribed by subsection (a) and (B) the revenue received from the rate of tax exceeding .5% shall be apportioned as follows: (i) One-fourth shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year and (ii) one-fourth shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county and (iii) one-half shall be retained by the county for its sole use and benefit.

(2) In lieu of the apportionment formula provided in subsection (a), all money received by the director of taxation from a countywide sales tax imposed within Montgomery county pursuant to the election held on November 8, 1994, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged. All revenue apportioned and paid from the imposition of such tax to the treasurer of any city prior to the effective date of this act shall be remitted to the county treasurer and expended only for the purpose for which the revenue received from the tax was pledged.

(c) (1) Except as otherwise provided by paragraph (2) of this subsection, for purposes of subsections (a) and (b), the term “total tangible property tax levies” means the aggregate dollar amount of tax revenue derived from ad valorem tax levies applicable to all tangible property located within each such city or county. The ad valorem property tax levy of any

county or city district entity or subdivision shall be included within this term if the levy of any such district entity or subdivision is applicable to all tangible property located within each such city or county.

(2) For the purposes of subsections (a) and (b), any ad valorem property tax levied on property located in a city in Johnson county for the purpose of providing fire protection service in such city shall be included within the term "total tangible property tax levies" for such city regardless of its applicability to all tangible property located within each such city. If the tax is levied by a district which extends across city boundaries, for purposes of this computation, the amount of such levy shall be apportioned among each city in which such district extends in the proportion that such tax levied within each city bears to the total tax levied by the district.

(d) (1) All revenue received from a countywide retailers' sales tax imposed pursuant to paragraphs (2), (6), (7), (8) ~~or~~, (9) *or* (12) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(2) Except as otherwise provided in paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, all revenues received from a countywide retailers' sales tax imposed pursuant to paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(e) All revenue apportioned to the several cities of the county shall be paid to the respective treasurers thereof and deposited in the general fund of the city. Whenever the territory of any city is located in two or more counties and any one or more of such counties do not levy a countywide retailers' sales tax, or whenever such counties do not levy countywide retailers' sales taxes at a uniform rate, the revenue received by such city from the proceeds of the countywide retailers' sales tax, as an alternative to depositing the same in the general fund, may be used for the purpose of reducing the tax levies of such city upon the taxable tangible property located within the county levying such countywide retailers' sales tax.

(f) Prior to March 1 of each year, the secretary of revenue shall advise each county treasurer of the revenue collected in such county from the state retailers' sales tax for the preceding calendar year.

(g) Prior to December 31 of each year, the clerk of every county imposing a countywide retailers' sales tax shall provide such information deemed necessary by the secretary of revenue to apportion and remit revenue to the counties and cities pursuant to this section.

(h) The provisions of subsections (a) and (b) for the apportionment of countywide retailers' sales tax shall not apply to any revenues received pursuant to a county or countywide retailers' sales tax levied or collected under K.S.A. ~~2001 Supp.~~ 74-8929, and amendments thereto. All such revenue collected under K.S.A. ~~2001 Supp.~~ 74-8929, and amendments thereto, shall be deposited into the redevelopment bond fund established by K.S.A. ~~2001 Supp.~~ 74-8927, and amendments thereto, for the period of time set forth in K.S.A. ~~2001 Supp.~~ 74-8927, and amendments thereto.;

And by renumbering sections accordingly;

Also on page 6, in line 26, before "K.S.A." by inserting "K.S.A. 12-192 and "; also in line 26, by striking "is" and inserting "are";

On page 1, in the title, in line 9, by striking "Chase county" and inserting "certain counties"; in line 10, after "amending" by inserting "K.S.A. 12-192 and"; in line 11, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 65** be amended on page 1, in line 39, by striking "schedule" and inserting "requirements";

On page 4, following line 30, by inserting:

"Sec. 4. K.S.A. 74-8223 is hereby amended to read as follows: 74-8223. (a) The secretary may authorize and subsequently certify profit or not-for-profit entities which meet the requirements of this act. The secretary shall compile a list of every certified CFC, including the address and telephone number of the certified CFC's principal place of business. The secretary shall publicize the list in order to inform Kansas companies of the availability of potential investment capital.

(b) The secretary shall review the organizational documents for each applicant for authorization as a CFC and the business history of the applicant to determine:

(1) That at the time of application, the applicant owns cash, marketable securities and other liquid assets valued at no less than \$500,000; or that prior to January 1, 2000, the applicant was designated as an innovation and commercialization corporation or an affiliate innovation and commercialization corporation created under the Kansas technology enterprise corporation innovation and commercialization corporation program; and

(2) that the officers and the board of directors, general partners, trustees, managing members or managers, as the case may be, are thoroughly acquainted with the requirements of this act and acknowledge such by a signed certification.

(c) To continue to be certified, the CFC must own and shall periodically demonstrate to the secretary, as the secretary may require, that the liquid asset base for the certified capital formation company is at least \$500,000 at all times during the CFC's participation in the program authorized by this act.

(d) With respect to any person who submits or has submitted an application for authorization as a CFC, the commissioner shall investigate to determine and report to the secretary whether any of the directors, trustees, managers, officers, general partners, beneficial owners of 10% or more of any class of equity securities or any promoters employed or otherwise associated with that person at the time of such application:

(1) Has been affiliated with any company that has filed a registration statement which is subject to a currently effective stop order entered pursuant to any state law;

(2) has been convicted of or *pleaded nolo contendere* to any felony or misdemeanor in connection with the purchase or sale of any security or any felony involving fraud or deceit including, but not limited to, forgery, embezzlement of money under false pretenses, larceny or conspiracy to defraud;

(3) is currently subject to any state administrative order or judgment entered by a state securities administrator or is subject to any state administrative order or judgment in which fraud or deceit was found and an order or judgment was entered;

(4) is currently subject to any state administrative order or judgment which prohibits the use of any exemption from registration in connection with the purchase or sale of securities; *and*

(5) is subject to any order, judgment or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction permanently restraining or enjoining that person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security, rendering investment advice or involving the making of any false filing with any state; ~~and~~

~~(6) has been convicted of or pleaded nolo contendere to any criminal offense other than a misdemeanor involving motor vehicle violations.~~

(e) The secretary shall not authorize any CFC if the commissioner's report includes any affirmative findings pursuant to subsection (d).

(f) The secretary shall review documentation regarding the qualifications of the persons who will actively manage the CFC and make a determination as to whether such persons possessed sufficient knowledge and professional experience in the areas of investment, venture capital, business management and evaluation, portfolio management, and such other area of expertise to the degree that a reasonable person would be confident in such manager's ability to manage the CFC. No authorization shall be issued when it is the opinion of the secretary that such persons do not possess this requisite degree of knowledge and expertise.

(g) No investor shall individually, or collectively with or through one or more affiliates, by means of ownership, agreement or otherwise, own, control or possess the power or ability to cause or direct the making of any qualified venture capital investments by a CFC.

(h) Within a period of time established by the secretary after receiving an application for authorization as a CFC, the secretary shall either issue or deny the authorization and communicate in detail to the applicant the grounds for the denial, including any suggestions for the removal of those grounds.”;

And by renumbering sections accordingly;

Also on page 4, in line 31, after "74-8222," by inserting "74-8223,";

On page 1, in the title, in line 11, after "74-8222," by inserting "74-8223,"; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **SB 79** be amended on page 2, in line 12, by striking "5%" and inserting "10%"; and the bill be passed as amended.

Also **SB 101** be amended on page 1, in line 16, by striking "2004" and inserting "2008"; and the bill be passed as amended.

SB 102 be amended on page 3, in line 6, by striking "at" and inserting "intended for"; and the bill be passed as amended.

SB 166 be amended on page 1, following line 12, by inserting the following:

"Section 1. K.S.A. 25-318 is hereby amended to read as follows: 25-318. When a vacancy shall occur in the office of United States senator from this state, the governor shall make a temporary appointment to fill such vacancy until the next election of representatives in congress, at which time such vacancy shall be filled by election, and the senator so elected shall take office as soon thereafter as ~~he~~ *such senator* shall receive ~~his~~ *such senator's* certificate of election. *The person appointed to fill such vacancy shall be selected from one of three persons nominated by the state committee of the same political party as the prior United States senator.*";

Also on page 1, in line 13, by striking "Section 1." and inserting "Sec. 2.";

By renumbering the remaining sections accordingly;

Also on page 1, in line 24, following "elected" by inserting "or appointed"; in line 36, by striking "25-3901 is" and inserting "25-318 and 25-3901 are";

In the title, in line 10, following "K.S.A." by inserting "25-318 and"; also in line 10, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 61** be amended on page 6, in line 19, by striking "\$100" and inserting "\$500"; in line 21, by striking "\$100" and inserting "\$500"; in line 23, by striking "\$100" and inserting "\$500"; in line 24, by striking "\$100" and inserting "\$500";

On page 9, in line 6, by striking "is several and not joint" and inserting "shall be subject to K.S.A. 60-258a, and amendments thereto"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 175** be amended on page 1, in line 31, by striking "18" and inserting "22"; and the bill be passed as amended.

On motion of Senator Oleen the Senate adjourned until 12:00 noon, Friday, February 21, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

