

Journal of the Senate

FORTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 14, 2003—9:30 a.m.

The Senate was called to order by President Dave Kerr.
The roll was called with thirty-five senators present.
Senators Brungardt, Donovan, Harrington, Lyon and Oleen were excused.
President Kerr introduced as guest chaplain, Rev. Don Cunningham, Pastor, Grace Baptist Church, Lawrence, who delivered the invocation:

Heavenly Father, thank you for the day that you have given to us. We stand in awe because of WHO you are. It is our privilege to come here today and seek your guidance and favor. Freedom is ours because of you. Because of your grace and mercy, we have prospered like no other country. We also know, Heavenly Father, that your word tells us that "to whom much is given—much shall be required." Knowing the bounty which we have received at your hand, and knowing as well that with privilege comes responsibility, help each one of us here today to be proper stewards of what we have. Grant to these here today Your wisdom, guide each one with Your counsel, teach us to care for one-another as You care for us.

Amen

PRESENTATION OF PETITIONS

The following petitions were presented, read and filed:

SP 8, A petition filed by the University of Kansas Board of Directors in appreciation of the commitment by Governor Kathleen Sebelius which prevents further budget cuts for higher education and the state's Regents institutions, signed by Robert Driscoll, Board Chairman and 23 other University of Kansas Board of Directors.

SP 9, A petition filed by K-State Alumni Association Board of Directors in appreciation of the commitment by Governor Kathleen Sebelius which prevents further budget cuts for higher education and the state's Regents institutions, signed by Herb Whitney, Board Chairman and 21 other Kansas State University Board of Directors.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Public Health and Welfare: **HB 2176**.

MESSAGE FROM THE GOVERNOR

March 14, 2003

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate is an appointment made by me as the Governor of the State of Kansas, pursuant to law.

Kathleen Sebelius
Governor

Rank of Major General in the Kansas Army National Guard, Brigadier General James R. Mason, pursuant to the authority vested in me by K.S.A. 48-208, effective upon the date of confirmation by the Senate and the retirement of Major General Lloyd E. Krase, on or about November 1, 2003.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1829—

A RESOLUTION celebrating Liberty Day.

WHEREAS, March 16 has been recognized by the United States Congress as a national, annual celebration called Liberty Day. Liberty Day is a nonpartisan, volunteer project of service club members throughout our nation, and is an officially approved, sanctioned project of the Lions Clubs of Kansas. March 16 was selected as the date to celebrate this event as it is the birthday of James Madison, our fourth president and the major author of the Virginia plan—the model and basis for the United States Constitution, which document replaced the ineffective Articles of Confederation as the basis of our form of national government; and

WHEREAS, Our rights and liberties are rooted in the cherished documents that gave birth to our nation, those being the Declaration of Independence and the United States Constitution with its Bill of Rights, and those documents set forth the principles upon which our government is based; and

WHEREAS, We as Americans enjoy our freedom and the rule of law through the documents that our founding fathers created; and

WHEREAS, The core principles embodied in the foundational documents that define the United States system of government form a common bond to unite the people of the United States; and

WHEREAS, Informed and participative citizens exhibit that responsibility and civic competence which will ensure the preservation of our form of constitutional self-government; and

WHEREAS, The civic culture that defines the United States can be sustained as long as each generation develops a deep understanding and commitment to the principles of our founding documents; and

WHEREAS, Liberty Day provides an opportunity for our citizens to realize the achievements of our founding fathers and the rights, privileges and responsibilities they secured for themselves and for posterity: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Senate recognizes March 16 as Liberty Day and encourages our citizens to take an active part in the celebration of this day; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Bobby Duvall, 4520 S.E. Croco Road, Berryton, KS 66409.

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

President Kerr and members of the Senate welcomed Bobby Duvall, representing the Lions Club.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 222** be amended on page 3, in line 16, following “mobile” by inserting “or modular”;

On page 4, by striking all in lines 32 through 34 and inserting the following:

“except as otherwise provided in this subsection, the authority shall not be authorized to make loans directly to individuals to (1) originate home mortgage loans secured by a first lien in competition with private lending institutions or (2) originate home mortgage loans secured by a junior lien in competition with private lending institutions unless such home

mortgage loans secured by junior lien are made only to pay all or a portion of a mortgagor's required down payment or closing costs in connection with the acquisition of a home;";

On page 10, in line 11, following the period, by inserting "Except as provided in K.S.A. 74-8904, and amendments thereto, any moneys derived by the authority from the issuance of bonds under this subsection (h) and not used directly to finance, acquire or originate home mortgage loans shall be used by the authority to support programs or activities related to low or moderate income housing."

On page 11, by striking all in lines 10 through 41 and inserting the following:

"New Sec. 5. Programs funded with proceeds of bonds issued under subsection (h) of K.S.A. 74-8905, and amendments thereto, shall not be restricted by the authority to prevent such programs from being available in all counties of the state and the authority shall adopt policies to facilitate the financing of home mortgage loans in those areas of the state which are not included in any metropolitan statistical area. For a period of at least 90 days following the issuance of bonds under subsection (h) of K.S.A. 74-8905, and amendments thereto, the authority shall reserve for use in financing home mortgage loans in those areas of the state which are not included in any metropolitan statistical area a minimum of 20% of the amount of the proceeds of such bonds that are available to finance home mortgage loans.

Sec. 6. K.S.A. 74-8903 is hereby amended to read as follows: 74-8903. (a) There is hereby created, with such duties and powers as are hereinafter set forth to carry out the provisions of this act, a public body politic and corporate, with corporate succession, to be an independent instrumentality of this state exercising essential public functions, and to be known as the Kansas development finance authority.

(b) The board of directors of the authority shall consist of the ~~five~~ *seven* members to be appointed by the governor. *Two of such members shall be individuals with housing expertise, as determined by the governor.* Not less than ~~three~~ *four* voting members of such board shall be representative of the general public and not more than ~~three~~ *four* voting members shall be members of the same political party.

(c) Members appointed by the governor shall be subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, whose appointment is subject to confirmation shall exercise any power, duty or function as a member of the authority until confirmed by the senate. Except as provided by subsection (d), such members shall serve for terms of four years and until their successors are appointed and confirmed. Any vacancy in the board occurring other than by expiration of term shall be filled by the appointment of the governor, but for the unexpired term only.

(d) The terms of members who are appointed by the governor and who are serving on the authority on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

(e) The governor shall designate the chairperson and vice-chairperson of the board from the members of such board.

(f) The authority shall have such rights, powers and privileges and shall be subject to such duties as provided by this act.

(g) The governor shall appoint a president who shall serve at the will of the governor. The president shall appoint and employ such additional officers, accountants, financial advisors or experts, bond counsel or other attorneys, agents and employees as it may require and shall determine their qualifications, duties and compensation subject to the approval of the board of directors. The president shall be an ex officio nonvoting member of the board and may be elected secretary of the board. The powers of the authority shall be vested in the members of the board of directors and ~~three~~ *four* members of the board shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members. Any motion and resolution to authorize an issue of bonds, to approve a loan application, to authorize a lease transaction or to approve a bond guaranty shall have the affirmative vote of at least ~~three~~ *four* board members.

(h) Before the issuance of any bonds, each member of the board of directors of the authority shall execute a surety bond in the penal sum of \$250,000 and the president of the authority shall execute a surety bond in the penal sum of \$250,000, each surety bond to be conditioned upon the faithful performance of the duties of the office by such board member or president, as the case may be, to be executed by a surety company authorized to transact business in the state of Kansas, as surety, and to be approved by the attorney general. At all times after the issuance of any bonds by the authority, each member of the board of directors of the authority shall maintain such surety bonds in full force and effect. All costs of such surety bonds shall be borne by the authority.

(i) The members of the board of directors of the authority shall serve without compensation, but the authority may reimburse its board members for mileage and subsistence expenses incurred in the discharge of their official duties as provided by subsections (b) and (c) of K.S.A. 75-3223, and amendments thereto.

(j) No part of the funds of the authority shall inure to the benefit of, or be distributed to, its employees, officers or board of directors, except that the authority shall be authorized and empowered to pay its employees reasonable compensation.

(k) The authority may be dissolved by act of the legislature on condition that the authority has no debts or obligations outstanding or provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds and assets thereof shall be vested in the state.”;

Also on page 11, in line 42, by striking “12-5233,”; also in line 42, following “74-8902,” by inserting “74-8903,”;

On page 1, in the title, in line 11, by striking “12-5233,”; also in line 11, following “74-8902,” by inserting “74-8903,”; and the bill be passed as amended.

Also **SB 237** be amended on page 2, in line 29, by striking “may” and inserting “shall”; in line 37, by striking “near” and inserting “adjacent to”;

On page 5, following line 23, by inserting:

“(f) If, at any time after creating a redevelopment authority pursuant to this section, the board of county commissioners determines that the redevelopment authority is no longer needed or should otherwise be dissolved, then the board of county commissioners may, by resolution, dissolve and abolish the redevelopment authority. Thereafter, the board of county commissioners, for and on behalf of the county, shall assume and perform any ongoing duties or powers of the authority, shall assume title to and possession of all property, real or personal, owned or held by the authority, and shall assume all debts, contracts and obligations lawfully incurred or entered into by the authority. The board of county commissioners may, by subsequent resolution, reestablish a redevelopment authority under this section at any later time.”;

On page 15, in line 19, following “thereto” by inserting “, other than an action for enforcement of federal laws commenced by appropriate authorities of the federal government,”;

On page 19, in line 20, by striking “or” and inserting “and”; in line 21, following “is” by inserting “otherwise”; also in line 21, following “authorized” by inserting “by law”; and the bill be passed as amended.

Substitute for HB 2064 be amended on page 1, in line 33, by striking “of” and inserting “on”;

On page 2, in line 9, by striking “a”, where it appears for the second time, and inserting “the above”; in line 10, by striking “, supplier or other person”; following line 11 by inserting the following:

“(d) As used in this section and K.S.A. 60-1103, and amendments thereto, “residential property” means a structure which is constructed for use as a residence and which is not used or intended for use as a residence for more than two families.”;

On page 3, in line 26, by striking “of” and inserting “on”; in line 38, before “Subcontractor” by inserting “Name of”;

On page 4, in line 5, by striking “a”, where it appears for the second time, and inserting “the above”; in line 6, following “other” by inserting “person”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2169** be amended on page 4, in line 13, before the period, by inserting: "and for the proration of fees accordingly"; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

SB 40 reported correctly enrolled, properly signed and presented to the Governor on March 14, 2003.

On motion of Senator Umbarger the Senate adjourned until 2:30 p.m., Monday, March 17, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

