

Journal of the Senate

TWENTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 19, 2004—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Sometimes a good thing taken to the extreme can become a bad thing.

Give us warm hearts without becoming wimps.
Give us a tough skin without becoming a tough guy.
Give us wisdom without becoming windy.
Give us courage without becoming cocky.
Give us boldness without becoming bull headed.
Give us perseverance without becoming pushy.
Help us to be polite without patronizing.
Give us convictions without becoming conceited.
Give us faith without becoming foolhardy.
Help us be hopeful without becoming haughty.
Help us to have love without lust.
Help us to be peaceful without appeasing.
Help us to be cheerful without being a clown.

In other words, O God, help us to be what You want us to be, and not become people who are not what You want us to be.

I ask this in the Name of Jesus,

AMEN

POINT OF PERSONAL PRIVILEGE

President Kerr rose on a point of personal privilege to introduce friend and former Hutchinson resident, Chauncey Veatch, 2002 National Teacher of the Year, now teaching and residing in Thermal, California.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 536, An act making and concerning appropriations for the fiscal years ending June 30, 2004, and June 30, 2005, for certain state agencies; authorizing certain transfers and capital improvement projects, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

SB 537, An act concerning capital improvements for state agencies; making and concerning appropriations for the fiscal years ending June 30, 2004, June 30, 2005, and June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain re-

ceipts, loans, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

SB 538, An act making and concerning appropriations for the fiscal years ending June 30, 2005, and June 30, 2006, 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. 2003 Supp. 2-223, 55-193, 75-2319, 76-775, 79-2959, 79-2964, 79-3425c, 79-3425i, 79-34,147 and 82a-953a 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:

Assessment and Taxation: **SB 535**.

Federal and State Affairs: **SB 533**, **SB 534**.

Financial Institutions & Insurance: **HB 2685**.

Judiciary: **HB 2477**, **HB 2525**, **HB 2581**, **HB 2603**.

Transportation: **Sub HB 2143**; **HB 2633**.

Ways and Means: **HB 2616**.

COMMUNICATIONS FROM STATE OFFICERS

STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL
Crime Victims Compensation Board

February 17, 2004

Phill Kline, Attorney General, pursuant to K.S.A. 74-7303, submitted for confirmation by the Senate, the appointment of Rita Noll as Chairperson of the Crime Victims Compensation Board, to replace the current chairperson, Glenda L. Cafer. Said term is effective March 16, 2004 and will expire March 15, 2008.

DEPARTMENT OF REVENUE
Office of the Secretary

February 17, 2004

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate is an appointment made by me as the Secretary of the Kansas Department of Revenue, pursuant to law as provided in K.S.A. 75-4315b.

Joan Wagnon
Secretary

Director, Kansas Department of Revenue, Division of Alcoholic Beverage Control, Thomas W. Groneman, pursuant to the authority vested in me by K.S.A. 75-5117, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Secretary of Revenue.

KANSAS FIRE AND RESCUE TRAINING INSTITUTE
University of Kansas

Pursuant to K.S.A. 76-327, the Kansas Fire Service Training Commission, submitted the annual report (July 2002—June 2003).

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

MESSAGE FROM THE HOUSE

Announcing passage of **Substitute HB 2516**; **Substitute HB 2558**; **HB 2601**, **HB 2621**, **HB 2652**, **HB 2669**, **HB 2670**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute HB 2516; Substitute HB 2558; HB 2601, HB 2621, HB 2652, HB 2669, HB 2670 were thereupon introduced and read by title.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 141, An act concerning administrative procedure; concerning presiding officers; amending K.S.A. 2-1208a, 2-3311, 8-2426, 21-3110, 31-140, 36-509, 40-2,137, 44-322a, 44-1005, 49-606, 65-163, 65-163a, 65-525, 65-526, 65-673, 65-780, 65-786, 65-2305, 65-3483, 65-3488, 65-3490, 66-1,117, 74-4904, 74-8804, 74-8816, 74-8817, 74-8837, 75-6207, 76-3110, 77-505, 77-549, 77-550, 77-551, 77-551 as amended by section 42 of this act, 79-3313, 82a-1405, 82a-1501a, 82a-1502 and 82a-1504 and K.S.A. 2003 Supp. 75-37,121, 77-514, 77-514 as amended by section 38 of this act, 82a-1503 and 82a-1901 and repealing the existing sections; also repealing K.S.A. 75-37,122 and 75-5611a, was considered on final action.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barone, Brownlee, Brungardt, Buhler, Bunten, Corbin, Downey, Emler, Gilstrap, Goodwin, Helgerson, Huelskamp, Jackson, Jordan, Journey, Kerr, Morris, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barnett, Betts, Clark, Donovan, Haley, Hensley, Lee, Lyon, O'Connor.

The bill passed, as amended.

SB 329, An act amending the child passenger safety act; amending K.S.A. 8-1343a, 8-1344 and 8-1345 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 27, Nays 12, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Kerr, Lee, Morris, Oleen, Schmidt, Schodorf, Taddiken, Umbarger, Vratil.

Nays: Betts, Clark, Gilstrap, Huelskamp, Journey, Lyon, O'Connor, Pugh, Salmans, Steineger, Tyson, Wagle.

Present and Passing: Teichman.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I have voted against this bill because I believe that it will give the police one more reason to make unnecessary stops of motorists. Unnecessary stops is one method used by police officers who illegally practice racial profiling to intimidate and harass motorists.—DONALD BETTS, JR.

MR. PRESIDENT: Normally, I would never support an additional tool for law enforcement to stop, detain, ticket and, possibly, arrest a motorist with little or no probable cause. The requirement that any one not wearing a safety restraint under age 17, and that children sit in booster seats, or be ticketed provides yet another flimsy erosion of probable cause and, subsequently, due process.

Statistics clearly indicate that young, drivers of color are “profiled” and stopped at an alarmingly high rate. This leads, of course, to further problems with the law. I can just hear the justification now by these biased officers: “I didn’t see the shoulder harness” or “The child looked under 17 to me”

But statistics also show that children of color; red, yellow, black and brown; are three times more likely to be injured or to die in an automobile accident.

For some reason, their families do not secure these children properly and safely with car seats and/or seat belts.

(As father of four children, I *always* require my children to buckle up.)

This is a public safety catastrophe and one that should be mitigated. Our legislature can truly become responsible in the protection of all of our children.—DAVID HALEY

Senator Hensley requests the record to show he concurs with the “Explanation of Vote” offered by Senator Haley on **SB 329**.

MR. PRESIDENT: I vote in favor of **SB 329** because it will result in saving the lives of our most precious resource, our children. It will also avoid a significant drain on the public treasury by reducing the number of severe, but not fatal, injuries. This bill reflects good public policy, something we should all support.

My vote in support of the bill is also premised on the explanation of the Senator from Sedgwick, Senator Donovan, that the provisions of the bill apply to a driver who is under 18 years of age and is the only person in the vehicle.—JOHN VRATIL

Senators Adkins, Goodwin and Umbarger request the record to show they concur with the “Explanation of Vote” offered by Senator Vratil on **SB 329**.

SB 363, An act concerning hunting; amending K.S.A. 32-921 and K.S.A. 2003 Supp. 32-920 and 32-937 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

SB 364, An act concerning wildlife; providing for reissuance of certain permits to certain military personnel; relating to wild turkeys; amending K.S.A. 32-701, 32-938, 32-943, 32-1004 and 32-1032 and K.S.A. 2003 Supp. 32-930, 32-937, 32-988 and 32-1050 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 379, An act concerning asset forfeiture; pertaining to notice to lienholder; amending K.S.A. 60-4107 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

SB 393, An act establishing the Kansas center for entrepreneurship within the department of commerce; providing for the membership and organization thereof; prescribing powers, duties and functions therefor; providing tax credits for investment in Kansas community entrepreneurship fund, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 399, An act concerning unclaimed property; relating to demutualization of insurance companies; amending K.S.A. 2003 Supp. 58-3935 and 58-3950 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-

skamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

SB 463, An act concerning appropriation of water for beneficial use; relating to perfection of water rights; amending K.S.A. 2003 Supp. 82a-714 and repealing the existing section, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Huelskamp.

The bill passed, as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 415** be passed.

Also, **SB 370** be amended on page 4, in line 32, after "tax" by inserting "year"; and the bill be passed as amended.

SB 478 be amended on page 1, in line 14, before "antenna" by inserting "broadcast towers,"; in line 15, after the comma by inserting "except public utility property valued and assessed pursuant to K.S.A. 79-5a01 *et seq.*, and amendments thereto,"; in line 19, after "of" by inserting "subsection (b)(2)(E) of"; also in line 19, by striking "79-503a" and inserting "79-1439"; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **SB 376** be amended on page 1, in line 16, by striking "4" and inserting "2"; by striking all in lines 18 through 43;

On page 2, by striking all of lines 1 through 43;

On page 3, by striking all of lines 1 through 43;

On page 4, by striking all of lines 1 through 36; by striking all of lines 41 through 43;

On page 5, by striking lines 1 through 40;

On page 6, in line 5, by striking "(1) At the time of termi-"; by striking all in lines 6 through 36 and inserting the following:

"New Sec. 2. (a) Notwithstanding any other provision of the campaign finance act, any candidate who transfers or transferred campaign funds to a bona fide successor committee or candidacy during the period commencing on January 1, 1976, and ending on December 31, 2003, shall be deemed to have made such transfer in compliance with the provisions of the campaign finance act in existence at the time of such transfer regardless of when the original campaign fund is closed after the date such transfer is made and such transfer is hereby validated.

(b) For the purposes of this section, a candidate's transfer of campaign funds to a bona fide successor committee or candidacy in accordance with this section shall be construed to be:

(1) Not a contribution within the meaning of K.S.A. 25-4143 and amendments thereto.

(2) A permissible use of all residual funds otherwise not obligated for the payment of expenses incurred in a candidate's campaign in addition to the uses specified in subsection (d) of K.S.A. 25-4157a and amendments thereto.

(c) For the purposes of this section:

(1) "Bona fide successor committee or candidacy" means the candidate's campaign committee or candidacy for an elected public office different from the elected public office held by the candidate at the time such transfer was made.

(2) "Local office" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(3) "Public office" means a state or local office.

(4) "State office" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(d) This section shall be part of and supplemental to the campaign finance act.";

By renumbering the remaining sections accordingly;

Also on page 6, in line 37, by striking all after “25-4142”; in line 38, by striking “are” and inserting “is”;

In the title, in line 10, by striking all after “25-4142”; in line 11, by striking all before “and”; also in line 11, by striking “sections” and inserting “section”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 366** be amended on page 1, in line 20, by striking “physician” and inserting “person licensed to practice medicine and surgery”; in line 23, by striking all after “thereto”; in line 24, by striking “ices”; in line 34, before “the” by inserting “who shall report,”; and the bill be passed as amended.

Also, **SB 443** be amended on page 3, in line 32, after “revoked” by inserting a comma;

On page 4, in line 16, before “The” by inserting “(a)”;

And by redesignating subsections (a) through (j) as (1) through (10), respectively;

Also on page 4, in line 21, by striking “65-6318” and inserting “65-6320”; also in lines 21 and 22, by striking “74-5372, inclusive” and inserting “74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375”; in line 29, by striking “65-6318” and inserting “65-6320”; in line 30, by striking “74-5372, inclusive” and inserting “74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375”; in line 35, by striking “65-6318” and inserting “65-6320”; in line 36, by striking “74-5372, inclusive” and inserting “74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375”; in line 41, by striking “65-6318” and inserting “65-6320”; in line 42, by striking “74-5372, inclusive” and inserting “74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375”;

On page 5, in line 6, by striking “65-6318” and inserting “65-6320”; in line 7, by striking “74-5372, inclusive” and inserting “74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375”; in line 14, by striking “65-6318” and inserting “65-6320”; in lines 15 and 16, by striking “74-5372, inclusive” and inserting “74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375”; in line 25, by striking “65-6318” and inserting “65-6320”; in lines 26 and 27, by striking “74-5372, inclusive” and inserting “74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375”; in line 33, by striking “65-6318” and inserting “65-6320”; in line 34, by striking “74-5372, inclusive” and inserting “74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375”; by striking all in lines 38 through 43;

On page 6, by striking all in lines 1 and 2;

And by redesignating subsections (m) and (n) as (11) and (12);

Also on page 6, after line 6, by inserting the following:

“(b) The behavioral sciences regulatory board, in addition to any other penalty, may assess an administrative penalty, after notice and an opportunity to be heard, against a licensee or registrant for a violation of any of the provisions of the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2003 Supp. 74-5375, and amendments thereto, the marriage and family therapists licensure act or the alcohol and other drug abuse counselor registration act in an amount not to exceed \$1,000. All fines assessed and collected under this section 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 state general fund.

(c) If an order of the behavioral sciences regulatory board is adverse to a licensee or registrant of the board, the costs shall be charged to such person as in ordinary civil actions in the district court in an amount not to exceed \$200. The board shall pay any additional costs and, if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed in accordance with statutes governing taxation of witness fees and costs in the district court.”;

On page 7, in line 8, by striking “the” where it appears for the last time; in line 9, by striking all before “without”; also in line 9, preceding the comma, by inserting “a profession regulated by the board for which the practitioners of the profession are required by law to be licensed in order to practice the profession”; in line 16, by striking “74-5375” and inserting “74-5374”; in line 17, before “and” by inserting “and K.S.A. 2003 Supp. 74-5375,”;

On page 8, in line 17, by striking “practitioner of the”; in line 18, by striking all before the period and inserting “licensee or registrant in lieu of other disciplinary action”; and the bill be passed as amended.

Committee on **Utilities** recommends **SB 309** be amended on page 1, in line 22, by striking “\$20,000” and inserting “\$5,000”; by striking all in lines 42 and 43;

On page 2, by striking all in lines 1 through 16;

By renumbering sections accordingly;

Also on page 2, in line 17, by striking “and 66-177 are” and inserting “is”;

In the title, in line 10, by striking “and 66-177”; in line 11, by striking “sections” and inserting “section”; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 141, SB 329, SB 364, SB 393, SB 463, reported correctly engrossed February 19, 2004.

On motion of Senator Oleen the Senate adjourned until 12:00 Noon, Friday, February 20, 2004.

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

PAT SAVILLE, *Secretary of the Senate*.

