

# Journal of the Senate

SIXTY-SECOND DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, May 4, 2004—10:00 a.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,

Every session about this time  
There are those who show concern  
And request that I ask You, O God,  
When we will adjourn.

And every year I remind them, Lord,  
That You never tell me when,  
But I assume that when we're finished  
That's when the session ends!

I also remind them, Lord,  
There are a hundred and sixty-five  
Who in an election year  
Are struggling to survive.

And also there's a governor  
And a court across the street,  
Each of them has a "say-so"  
And a criterion to meet.

And as long as there are two sides  
Trying hard to win,  
It's going to take some time  
To bring things to an end.

So the only way to speed things up  
Is to empower a king or queen:  
And we will have the shortest session  
That we have ever seen.

But I don't think any of us want that.

I pray in Jesus' Name,

AMEN

## CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2624**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 21 through 43;

By striking all on pages 2 through 13 and inserting:

“Section 1. K.S.A. 12-1260 is hereby amended to read as follows: 12-1260. When used in this act and unless otherwise specifically provided therein:

(a) “County” means Shawnee county;

(b) “city” means the city of Topeka, Kansas;

(c) “library district” means all territory located within Shawnee county except ~~that~~ (1) territory located within Rossville township and Silver Lake township and (2) *territory detached from the district pursuant to section 3, and amendments thereto*;

(d) “board” means the library board of trustees appointed pursuant to the provisions of this act;

(e) “library” means a library which serves the general public and is supported in whole or in part with tax money and shall be called the Topeka and Shawnee county public library;

(f) “governing body” means the governing body of a city or the board of county commissioners of a county; and

(g) “maintenance and support” means the general and usual cost and expense of operating a library.

Sec. 2. K.S.A. 12-1267 is hereby amended to read as follows: 12-1267. (a) The board shall prepare, publish and approve an annual budget for the maintenance and support of the library and may levy a tax not to exceed five mills on all taxable tangible property in the library district. At least 10 days prior to filing the adopted budget with the county clerk, the board shall submit the budget to the governing body of the city and county for review thereby.

(b) Whenever the board determines that the tax levy of five mills authorized by subsection (a) is insufficient to maintain and support the library, the board shall adopt a resolution declaring it necessary to increase the annual levy by an additional amount not to exceed  $\frac{1}{4}$  mill in any one year up to a total amount which shall not exceed an amount equal to eight mills in any year.

(c) Any such resolution adopted under subsection (b) shall state the total amount of the tax to be levied for library purposes and shall be published once each week for two consecutive weeks in the official county newspaper. Whereupon such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a petition, signed by at least 5% of the qualified electors of the library district, requesting an election upon the proposition to increase the tax levy in excess of the current tax levy is filed with the county election officer within 60 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the electors of the library district voting at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law. Such taxes shall be levied and collected in like manner as other taxes, which levy the board shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the treasurer of such board.

(d) The levy authorized by this section shall not be deemed a levy of the city or county, and shall be in addition to all other levies authorized or limited by law.

(e) *Any territory detached pursuant to section 3, and amendments thereto, shall not be liable for any levy imposed pursuant to this section after the effective date of such detachment.*

New Sec. 3. (a) Upon presentation to the board of trustees of the library district of a resolution adopted by the governing body of the city of Auburn, Kansas, requesting that all territory located within the city of Auburn be detached from the library district, the board shall adopt a resolution detaching such territory from the library district. The detachment of such territory shall be effective on January 1 of the succeeding year. The library board

shall declare the new boundaries of the library district by resolution and shall certify a copy of such resolution to the county clerk.

(b) No resolution requesting that all territory located within the city of Auburn be detached from the library district adopted by the governing body of the city of Auburn, Kansas pursuant to subsection (a) shall take effect until 60 days after its final publication, and if within 60 days of its final publication a petition signed by a number of electors of the city equal to not less than 10% of the number of electors who voted at the last preceding regular city election shall be filed with the county election officer of the county in which such city is entirely or primarily located demanding that such resolution be submitted to a vote of the electors, such resolution shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

(c) Any property annexed by the city of Auburn, Kansas, subsequent to the presentation of a resolution requesting detachment pursuant to subsection (a), may be detached from the library district in the same manner and subject to the same conditions imposed pursuant to this section.

(d) The territory detached from the library district shall be liable for its proportionate share of all outstanding bonded indebtedness and any interest thereon of the library district on the date the resolution is passed by the library board detaching the territory.

New Sec. 4. K.S.A. 12-1260 through 12-1270 and sections 3 and 4, and amendments thereto, shall be known and may be cited as the Topeka and Shawnee library district act.

Sec. 5. K.S.A. 12-1260 and 12-1267 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, by striking all in lines 13 through 18 and inserting:

“AN ACT concerning libraries; relating to the Topeka and Shawnee county library district; amending K.S.A. 12-1260 and 12-1267 and repealing the existing sections.”;

And your committee on conference recommends the adoption of this report.

BARBARA P. ALLEN  
MARK A. BUHLER  
DONALD BETTS, JR.  
*Conferees on part of Senate*

JENE VICKREY  
RALPH OSTMEYER  
TOM THULL  
*Conferees on part of House*

Senator Allen moved the Senate adopt the Conference Committee Report on **HB 2624**.

On roll call, the vote was: Yeas 15, Nays 22, Present and Passing 3, Absent or Not Voting 0.

Yeas: Barone, Brownlee, Buntin, Corbin, Huelskamp, Jackson, Jordan, Kerr, Morris, O'Connor, Oleen, Salmans, Taddiken, Tyson, Wagle.

Nays: Adkins, Allen, Barnett, Betts, Brungardt, Buhler, Clark, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Journey, Lyon, Pugh, Schmidt, Schodorf, Steineger, Teichman, Vratil.

Present and Passing: Donovan, Lee, Umbarger.

The Conference Committee report was not adopted.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I vote aye on this Conference Committee Report **HB 2624** to allow the residents of the City of Auburn to determine by petition and ballot if they would remove their municipality from the Topeka Shawnee County Library for two reasons: The Board members who testified originally in opposition stated that they would be unopposed if a petition and ballot were amended in. I also support the right of people to vote on issues which affect their level of services and the taxes they pay whenever possible.

The Topeka Shawnee County Library is a world-class facility for a community of our size and I am confident that the citizens of Auburn would vote to remain in the Topeka Shawnee County Library system.—DAVID JACKSON

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

SENATE RESOLUTION No. 1866—

A RESOLUTION congratulating and commending Roger and Verla Mae Staab.

WHEREAS, Roger Staab and Verla Mae Kreutzer were married on June 2, 1954; and

WHEREAS, Roger will celebrate his 70th birthday on October 30 and Verla Mae will celebrate her 70th birthday on December 13; and

WHEREAS, They are the parents of Glenn David, Lyle Francis, Dale Joseph, Terri Lynn and Mark Anthony; and these children have blessed Roger and Verla with eight grandsons, three granddaughters, two grandchildren in heaven and one great-grandchild; and

WHEREAS, Roger and Verla Mae have supported Democratic candidates and office-holders including Governor Kathleen Sebelius, Senator Janis Lee and Representative Eber Phelps; and

WHEREAS, Roger has served Governor Sebelius as her chauffeur and is currently serving on the Kansas Real Estate Commission; and

WHEREAS, Verla Mae is a prolific supporter of our state's economy through bingo and the lottery: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Roger and Verla Mae Staab upon their great life together and wish them many more happy years; and

*Be it further resolved:* That the Secretary of the Senate provide seven enrolled copies of this resolution to Glenn Staab, 3328 Lincoln Drive, Hays, KS 67601.

On emergency motion of Senator Lee **SR 1866** was adopted unanimously.

**REPORT ON ENROLLED BILLS**

**SR 1863, SR 1864, SR 1865** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 3, 2004.

On motion of Senator Oleen, the Senate recessed until 1:00 p.m.

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**AFTERNOON SESSION**

The Senate met pursuant to recess with President Kerr in the chair.

**MESSAGE FROM THE HOUSE**

Announcing the House nonconcur in Senate amendments to **Substitute HB 2145**, requests a conference and has appointed Representatives Decker, Horst and Storm as conferees on the part of the House.

The House announces the appointment of Representatives Decker, O'Neal, and Reardon to replace Representatives Freeborn, Tapanelli and Flora as conferees on **SB 463**.

The House announces the appointment of Representatives Decker, O'Neal, and Reardon to replace Representatives Hayzlett, Faber and J. Miller as conferees on **SB 472**.

The House accedes to the request of the Senate for a conference on **HB 2418** and has appointed Representatives O'Neal, Patterson and Pauls as second conferees on the part of the House.

Announcing the House adopts the conference committee report on **Substitute SB 296**.

The House not adopts the conference committee report on **Senate Substitute for Substitute HB 2777**, requests a conference and appoints Representatives Loyd, Owens and Ward as second conferees on the part of the House.

The House adopts the conference committee report on **HB 2271**.

The House adopts the conference committee report on **HB 2774**.

The House concurs in Senate amendments to **HB 2948**.

The House announces the appointment of Representative Merrick to replace Representative Mason as a conferee on **House Substitute for SB 2**.

**ORIGINAL MOTION**

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **Sub SB 296**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 296**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee amendments, as follows:

On page 8, by striking all in lines 15 through 43;

On page 9, by striking all in lines 1 through 14 and inserting in lieu thereof the following: "New Sec. 16. Notwithstanding the provisions of K.S.A. 77-514, and amendments thereto, on and after July 1, 2004, with respect to hearings pursuant to K.S.A. 65-6a18 *et seq.*, and amendments thereto, before the secretary of agriculture in accordance with the Kansas administrative procedure act, a hearing officer from the office of administrative hearings shall be the presiding officer unless the party requests that the matter, for which a hearing has been scheduled or for which a right to a hearing exists, be heard by a hearing officer appointed by the secretary.";

On page 1, in the title, in line 14, by striking all after the semicolon; in line 15, by striking all before "amending";

And your committee on conference recommends the adoption of this report.

DAN JOHNSON  
SHARON SCHWARTZ  
DANIEL J. THIMESCH  
*Conferees on part of House*

DEREK SCHMIDT  
TIM HUELSKAMP  
JANIS K. LEE  
*Conferees on part of Senate*

Senator Schmidt moved the Senate adopt the Conference Committee Report on **Sub SB 296**.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Adkins, Barnett, Brownlee, Haley.

The Conference Committee report was adopted.

**ORIGINAL MOTION**

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **Sub HB 2145**.

The President appointed Senators Umbarger, Vratil and Hensley as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **S Sub for Sub HB 2777**.

The President appointed Senators Vratil, Schmidt and Goodwin as second conferees on the part of the Senate.

**REPORT ON ENGROSSED BILLS**

**SB 552** reported correctly engrossed May 4, 2004.

**SB 29** reported correctly re-engrossed May 3, 2004.

Also: **SB 144**, **SB 432** correctly re-engrossed May 4, 2004.

**REPORT ON ENROLLED BILLS**

**H Sub for SB 12** reported correctly enrolled, properly signed and presented to the Governor on May 4, 2004.

On motion of Senator Oleen, the Senate recessed until 3:00 p.m.

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The Senate met pursuant to recess with President Kerr in the chair.

**CHANGE OF CONFERENCE**

The President announced the appointment of Senator Downey as a member of the Conference Committee on **Sub HB 2145** to replace Senator Hensley.

**REPORT ON ENGROSSED BILLS**

**H Sub SB 272** reported correctly engrossed May 4, 2004.

On motion of Senator Oleen, the Senate recessed until 6:00 p.m.

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**EVENING SESSION**

The Senate met pursuant to recess with President Kerr in the chair.

**MESSAGE FROM THE HOUSE**

Announcing the House concurs in Senate amendments to **HB 2949**.

**ORIGINAL MOTION**

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 511**.

**CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR**

Senator Wagle moved the Senate concur in house amendments to **SB 511**.

**SB 511**, An act concerning infants; relating to rule and regulation authority for the newborn infant hearing screening program; amending K.S.A. 65-1,157a and repealing the existing section.

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 Senate concurred.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Wednesday, May 5, 2004.

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

PAT SAVILLE, *Secretary of the Senate*.

