

Journal of the Senate

THIRTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, February 21, 2005—2:30 p.m.

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

Heavenly Father,

We are observing Presidents' Day today. I understand it was designed to celebrate Washington's and Lincoln's birthday anniversary on the same day. However, since I have already dedicated one prayer to Lincoln, I will wait until tomorrow to observe Washington's.

So today I am praying for our present President, George W. Bush. You have told us, O God, in Paul's first letter to Timothy, that requests, prayers, intercession and thanksgiving should be made...for all those in authority. (1 Timothy 2:1-2)

So we pray today that you would protect our President from harm, and give him wisdom to perform his duties according to what benefits our nation. While American citizens have a right to criticize him, impress upon us that it is just as important to pray for him on a regular basis.

If those in authority were to be prayed for as much as they are bad-mouthed...

The president would be better;

Those who pray would be better;

And our country would be blessed.

Remind us, Lord, to pay attention to the words of the psalmist: "Blessed is the nation whose God is the Lord." (Psalm 33:12)

I pray this humbly in the name of Jesus Christ,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 274, An act concerning alcoholic liquor; amending K.S.A. 41-308b and 41-310 and K.S.A. 2004 Supp. 41-719 and 41-2645 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 275, An act concerning the secretary of state; relating to fees for certain publications provided by the secretary of state; amending K.S.A. 2004 Supp. 45-107, 75-436, 77-430 and 77-431 and repealing the existing sections, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1608—

By Senator Hensley

A CONCURRENT RESOLUTION memorializing the Congress of the United States to designate a national holiday in honor of Cesar Chavez.

WHEREAS, Cesar Chavez, founder of the United Farm Workers of America, AFL-CIO, dedicated his life to the cause of justice for farm workers. Through his dedication, Cesar

Chavez built not only a union but a movement of all races to continue the endless struggle to fight for workers' rights, civil rights and human rights; and

WHEREAS, Cesar Chavez was a role model for all workers, especially for Latinos and their children; and

WHEREAS, Cesar Chavez taught us to use power in a nonviolent manner and to employ this principle to secure justice for all workers in the labor movement; and

WHEREAS, Cesar Chavez was a recipient of the Martin Luther King, Jr. Peace Prize and the Presidential Medal of Freedom; and

WHEREAS, His death on April 23, 1993, brought the Latino community together to continue his struggle to obtain justice and to secure a better life by organizing unions at the workplace; and

WHEREAS, A resolution is pending in the United States Congress to commemorate the spirit of Cesar Chavez and an earlier resolution was introduced to establish a national holiday in memory of Cesar Chavez: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we urge the adoption of a resolution providing for a national holiday honoring Cesar Chavez and that this holiday be celebrated on Cesar Chavez's birthday, March 31; and

Be it further resolved: That the Secretary of State send enrolled copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Kansas congressional delegation.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS PAROLE BOARD

Pursuant to the provisions of KSA 22-3710, Marilyn Scafe, Chair, submitted the Annual Report of the Kansas Parole Board for fiscal year 2004.

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

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2082, HB 2084, HB 2141, HB 2156, HB 2164, HB 2168, HB 2205, HB 2206, Sub HB 2276, HB 2314, HB 2327.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2082, HB 2084, HB 2141, HB 2156, HB 2164, HB 2168, HB 2205, HB 2206; Sub HB 2276, HB 2314, HB 2327 were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 107** be amended on page 2, in line 39, by striking all after "(iii)"; in line 40, by striking all before the period and inserting "where base period wage credits of a contributing employer or rated governmental employer represent part-time employment, defined as less than 20 hours per week or less than \$2,500 in base period wages"; by striking all in lines 41 through 43;

On page 3, by striking all in lines 1 through 10;

And by relettering the remaining paragraphs accordingly; and the bill be passed as amended.

Also, **SB 139** be amended on page 1, in line 25, by striking "and" and inserting "or";

On page 2, in line 3, by striking "and" and inserting "or"; in line 4, by striking "and" and inserting a comma; in line 5, after "interviews" by inserting "and other such factors as the board identifies"; in line 19, after "of" by inserting "no more than"; in line 21, after the second "of" by inserting "no more than"; in line 23, by striking "two" and inserting "one"; also in line 23, by striking "pupils" and inserting "pupil"; after line 25, by inserting the following:

"(d) The board shall have authority to aid regent institutions in developing short-term summer academies."; and the bill be passed as amended.

Committee on **Education** recommends **HB 2059**, as amended by House Committee, be passed.

Committee on **Judiciary** recommends **SB 82** be passed.

Committee on **Ways and Means** recommends **SB 123** be passed.

REPORT ON ENGROSSED BILLS

SB 89, SB 209 reported correctly engrossed February 18, 2005.

REPORT ON ENROLLED BILLS

SB 23 reported correctly enrolled, properly signed and presented to the Governor on February 21, 2005.

SCR 1607 reported correctly enrolled, properly signed and presented to the Secretary of State on February 21, 2005.

COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Brungardt in the chair.

On motion of Senator Brungardt the following report was adopted:

Recommended **SR 1820** be adopted.

The Committee considered **SB 6**.

Senator Hensley moved **SB 6**, be rereferred to the Committee on Judiciary.

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 19, Nays 21, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barone, Brownlee, Bruce, Emler, Goodwin, Hensley, Kelly, Lee, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Apple, Barnett, Betts, Brungardt, Donovan, Francisco, Gilstrap, Haley, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Taddiken.

The motion failed.

On motion to recommend **SB 6** favorably for passage, a roll call vote was requested upon the showing of five hands.

On roll call, the vote was: Yeas 18, Nays 22, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Betts, Brownlee, Bruce, Brungardt, Francisco, Gilstrap, Goodwin, Haley, Hensley, Journey, Kelly, Lee, McGinn, Reitz, Steineger, Vratil, Wysong.

Nays: Allen, Apple, Barnett, Donovan, Emler, Huelskamp, Jordan, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Wagle, Wilson.

The motion failed and **SB 6** remains on the calendar under the heading of General Orders.

EXPLANATION OF VOTE

MR. CHAIRMAN: I opposed this motion to send **SB 6** back to the Judiciary Committee. After nine years in the Senate, I have not ever had the opportunity for an up-or-down vote on the death penalty. By rejecting this motion, every senator, including myself, must now take a public stand on this important public policy issue.—TIM HUELSKAMP

The Committee considered **SB 28**.

Senator Hensley moved **SB 28** be rereferred to the Committee on Judiciary.

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barone, Betts, Brownlee, Bruce, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Journey, Kelly, Lee, McGinn, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Apple, Barnett, Brungardt, Donovan, Jordan, Morris.

The motion passed and **SB 28** was returned to the Committee on Judiciary.

EXPLANATION OF VOTE

MR. CHAIRMAN: I believe the families of the victims killed by the seven people upon whom the death penalty has been imposed and the prosecutors, who have obtained those convictions, deserve the right to have the Judicial Review Process be completed before there are any legislative attempts to modify the Kansas Death Penalty. Therefore, I must vote to send **SB 28** back to committee.—MIKE PETERSEN AND TIM HUELSKAMP

CHANGE OF REFERENCE

The President withdrew **SB 6** from the Calendar under the heading of General Orders and rereferred the bill to the Committee on Judiciary.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, February 22, 2005.

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

PAT SAVILLE, *Secretary of the Senate.*

