

Journal of the Senate

FORTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 10, 2005—2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with thirty-seven senators present.
Senators Allen, Schodorf and Wagle were excused.
Vice President Vratil introduced as guest chaplain, Rev. Ernest A. Jones, Pastor, Lane Chapel C.M.E. Church, Topeka, and Divisional Director of Correctional Services of the Salvation Army, who delivered the invocation:

Dear Lord, we count it an honor to experience the wonders of Your Glory
We pray, Oh God, that You will grant us your wisdom
Allow us a glimpse of the times that lie ahead
That we may choose what is best for the common good

Bless the leaders in this hearing whom You have chosen
Watch over their hearts and prepare their minds
For choices, they make that affect human kind

Now Lord as servants of the most high
We ask that You give us Your peace
And along with Your peace have mercy upon us. Amen

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

SB 294, An act concerning lotteries; concerning electronic gaming, lottery facility games and other lottery games; amending K.S.A. 74-8702, 74-8705, 74-8710, 74-8723, 74-8830 and 74-8832 and K.S.A. 2004 Supp. 19-101a and 74-8711 and repealing the existing sections; also repealing K.S.A. 2004 Supp. 19-101k, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1609—

By Committee on Utilities

A CONCURRENT RESOLUTION urging Congress to provide funding to the Kansas Department of Transportation to improve and upgrade the department's radio communication system.

WHEREAS, Providing law enforcement and emergency response services in Kansas is often complicated by great distances between communities where services are located; and

WHEREAS, Adequate response to natural or man-made disasters requires coordination of a number of response agencies; and

WHEREAS, The Kansas Department of Transportation operates for its own use and for the Kansas Highway Patrol an 800 MHz radio communication system; and

WHEREAS, Creation and maintenance of a statewide interoperable radio communication system for the use of state and local law enforcement, emergency services providers, and public health and safety agencies is in the best interest of the citizens of Kansas and the citizens of the United States: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Legislature supports the initiative of the Kansas Department of Transportation to improve and upgrade the department's radio communication system to a truly statewide ANSI/TIA Project 25 interoperable radio communication system; and

Be it further resolved: That the Legislature supports the Kansas Department of Transportation's project to assist state and local law enforcement and other public health and safety entities in meeting their needs for access to a truly statewide ANSI/TIA Project 25 interoperable radio communication system; and

Be it further resolved: That the Legislature strongly urges the Congress of the United States to provide funding in support of the creation of a Kansas statewide ANSI/TIA Project 25 interoperable radio communications system; and

Be it further resolved: That the Secretary of State is directed to send enrolled copies of this resolution to each member of the Kansas Congressional delegation and the President of the United States.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2288, HB 2308.**

Financial Institutions & Insurance: **HB 2469.**

Ways and Means: **HB 2116, HB 2478.**

COMMUNICATIONS FROM STATE OFFICERS

THE ADJUTANT GENERAL'S DEPARTMENT

Tod M. Bunting, Major General (KS), Kansas National Guard, The Adjutant General, submitted the Triennial Report for 2002-2004.

The Vice 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.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 74, An act relating to state educational institutions; concerning the conversion of positions in the classified service to positions in the unclassified service; amending K.S.A. 2004 Supp. 74-4925 and 75-2935 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 3, Present and Passing 0, Absent or Not Voting 3.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Pine, Pyle, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Gilstrap, Petersen, Reitz.

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote Yes on **SB 74**. Our civilized society has created rights of equality and fairness. We are blessed to live in a society that mandates such principles. The workplace is a society of it's own that should mirror society in that, equity and fairness should not simply be promoted, but instead secured. In government, this can only be accomplished by the accountability civil service protections provide.—DONALD BETTS, JR.

SB 128, An act concerning taxation; relating to mineral severance tax; disposition of revenue; creating the oil and gas valuation depletion trust fund and providing for distribution of moneys therefrom; amending K.S.A. 2004 Supp. 79-4227 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 32, Nays 5, Present and Passing 0, Absent or Not Voting 3.

Yeas: Apple, Barnett, Barone, Betts, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor,

Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Brownlee, Francisco, Lee, Pyle, Steineger.

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed, as amended.

HB 2034, An act concerning judicial review and civil enforcement of agency actions; amending K.S.A. 77-603 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 3, Present and Passing 0, Absent or Not Voting 3.

Yeas: Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Barone, Huelskamp, Palmer.

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed.

HB 2130, An act concerning confidential communications and information; relating to treatment facility patients; amending K.S.A. 2004 Supp. 65-5603 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 0, Absent or Not Voting 3.

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

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed, as amended.

REPORT ON ENGROSSED BILLS

SB 74, SB 128 reported correctly engrossed March 10, 2005.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 2164**, as amended by House Committee, be passed.

Also, **SB 33** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 33," as follows:

"Substitute for SENATE BILL No. 33

By Committee on Commerce

"AN ACT concerning private construction contracts, enacting the Kansas fairness in private construction contract act.;"

and the substitute bill be passed.

Committee on **Education** recommends **SB 44** be amended on page 1, in line 20, by striking "certification" and inserting "licensure"; in line 30, by striking "six" and inserting "five"; in line 37, by striking "72-34,163" and inserting "74-32,163";

On page 2, in line 7, by striking "certification" and inserting "licensure"; in line 9, by striking all following the comma; by striking all in lines 10 and 11; in line 12, by striking all preceding "consideration"; in line 27, by striking "certification" and inserting "licensure"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 262; HB 2027, HB 2083**, as amended by House Committee, be passed.

Also, **SB 263** be amended on page 1, in line 18, by striking "15" and inserting "13"; in line 19, by striking "Eleven" and inserting "Nine"; in line 30, after the stricken "and" by inserting "and"; by striking all in lines 31 through 33; in line 34, by striking "(G)" and inserting "(F)"; in line 37, after "service" by inserting "and at least one shall be an administrator of an ambulance service for which a current valid permit has been issued pursuant to K.S.A. 65-6127, and amendments thereto"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2097, HB 2098** be passed.

Also, **HB 2171** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Judiciary** recommends **HB 2418** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Public Health and Welfare** recommends **HB 2153**, as amended by House Committee, be amended on page 2, in line 39, before "on" by inserting: "of social and rehabilitation services and the department";

On page 3, in line 17, by striking all after "residents"; in line 18, by striking all before the period; and the bill be passed as amended.

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 Jordan in the chair.

On motion of Senator Jordan the following report was adopted:

Recommended **HB 2042, HB 2086, HB 2178, HB 2297** be passed.

SB 62; HB 2123, HB 2215 be amended by adoption of the committee amendments, and the bills be passed as amended.

HB 2156 be amended by adoption of the committee amendments, be further amended by motion of Senator Barnett as amended by Senate Committee, on page 2, in line 41, by striking "not exceed two-to-one" and inserting "be prescribed by the board by rule and regulation", and **HB 2156** be passed as further amended.

SB 259 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 62; HB 2042, HB 2086, HB 2123, HB 2156, HB 2178, HB 2215, HB 2297** were advanced to Final Action and roll call.

SB 62, An act enacting the grandparents as foster parents act; prescribing powers, duties and functions for the secretary of social and rehabilitation services.

On roll call, the vote was: Yeas 34, Nays 3, Present and Passing 0, Absent or Not Voting 3.

Yeas: Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Apple, Huelskamp, Ostmeyer.

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed, as amended.

HB 2042, An act concerning telecommunications; amending K.S.A. 66-2005 and repealing the existing section.

On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 0, Absent or Not Voting 3.

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

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed.

HB 2086, An act concerning home health agencies; relating to surveys; amending K.S.A. 65-5104 and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 1, Present and Passing 0, Absent or Not Voting 3.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Francisco.

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed.

HB 2123, An act relating to railroads; concerning the transfer of certain powers, duties and functions of the state corporation commission to the Kansas department of transportation; amending K.S.A. 66-105, 66-154, 66-154a, 66-154b, 66-155, 66-230, 66-525, 66-532 and 66-1217 and repealing the existing sections; also repealing K.S.A. 44-564, 66-103, 66-112, 66-145, 66-146, 66-148, 66-149, 66-153, 66-157 through 66-163, 66-166, 66-168, 66-173, 66-174, 66-180, 66-181, 66-182, 66-201 through 66-216, 66-224, 66-225, 66-226, 66-235 through 66-241, 66-244 through 66-249, 66-277, 66-278, 66-285 through 66-294, 66-2,108, 66-2,109, 66-2,111, 66-2,112, 66-2,113, 66-2,119, 66-304 through 66-307, 66-319 and 66-320.

On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 0, Absent or Not Voting 3.

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

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed, as amended.

HB 2156, An act concerning the state board of pharmacy; regarding registration of pharmacy technicians; amending K.S.A. 2004 Supp. 65-1663 and repealing the existing section.

On roll call, the vote was: Yeas 33, Nays 4, Present and Passing 0, Absent or Not Voting 3.

Yeas: Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Barone, Francisco, Lee, Ostmeyer.

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed, as amended.

HB 2178, An act concerning the Kansas senior care act; relating to preventative health services; amending K.S.A. 75-5927 and K.S.A. 2004 Supp. 75-5928 and repealing the existing sections.

On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 0, Absent or Not Voting 3.

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

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed.

HB 2215, An act relating to commercial driver's licenses; creating the hazmat fee fund; amending K.S.A. 8-259 and K.S.A. 2004 Supp. 8-267, 8-2,142 and 8-2,151 and repealing the existing sections.

On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 0, Absent or Not Voting 3.

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

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed, as amended.

HB 2297, An act amending the interstate motor fuel use act; relating to certain exemptions; amending K.S.A. 79-34,120 and repealing the existing section.

On roll call, the vote was: Yeas 37, Nays 0, Present and Passing 0, Absent or Not Voting 3.

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

Absent or Not Voting: Allen, Schodorf, Wagle.

The bill passed.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Friday, March 11, 2005.

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

PAT SAVILLE, *Secretary of the Senate*.

