

Journal of the Senate

EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, January 19, 2006—2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with thirty-eight senators present.
Senators Barnett and Wagle were excused.
Vice President Vratil introduced as guest chaplain, Dr. Robert Meneilly, Pastor Emeritus, Village Presbyterian Church, Prairie Village, Kansas, who delivered the invocation:

Eternal One in whom we all live and move and have our human dignity, attend us, we pray. You dare trust us with the good keeping of your earth and the loving of all our neighbors as we love ourselves. Keep prompting us by your ever-present Spirit lest we be inadequate to deal with the awesome responsibilities of this day. We all have certain tendencies to be a bit narrow-minded and trouble getting beyond our personal opinions in challenging matters. Today we give ourselves to seek Divine wisdom—wisdom justified by our deeds. Aid us in keeping our legislatures from becoming stuck in deep outmoded ruts. Enable all who are trusted with governing powers to be diligent in seeking the justice and welfare of all citizens alike. Enable all in the political arena to have the mind and heart to make for civility and integrity in all their actions. Trust us to keep our differences with one another constructive and never destructive. We would strive to make every day of our life count for the highest and noblest. So may it be.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 399, An act concerning the joint committee on special claims against the state; relating to information filed and evidence presented; amending K.S.A. 46-914 and repealing the existing section, by Senators Bruce, Gilstrap, Journey, Pyle and Taddiken.

SB 400, An act concerning adoption; relating to assertion of parental rights; amending K.S.A. 59-2136 and repealing the existing section, by Senator Journey.

SB 401, An act concerning crimes, criminal procedure and punishment; relating to theft of a rifle, shotgun or firearm; amending K.S.A. 2005 Supp. 21-3701 and repealing the existing section, by Senator Journey.

SB 402, An act concerning cruelty to animals; amending K.S.A. 21-4317 and 47-1706 and K.S.A. 2005 Supp. 21-2511, 21-4310, 21-4311, 21-4704, 22-3717 and 22-4906 and repealing the existing sections; also repealing K.S.A. 21-4314, 21-4315 and 21-4319 and K.S.A. 2005 Supp. 21-4316, by Senators Journey, Apple, Barnett, Emler, Gilstrap, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, D. Schmidt, Schodorf, Steineger, Taddiken, Umbarger and Wilson.

SB 403, An act concerning alcoholic beverages; concerning certain unlawful acts; amending K.S.A. 41-106, 41-713 and 41-2610 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 404, An act concerning sales taxation; relating to exemptions; certain personal property used in the collection, storage and distribution of food products; amending K.S.A.

2005 Supp. 79-3606 and repealing the existing section, by Committee on Assessment and Taxation.

SB 405, An act concerning certain foreign insurance companies doing business in this state; pertaining to the commissioner's waiver of certain requirements; amending K.S.A. 40-209 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 406, An act concerning the Kansas offender registration act; providing for motor vehicle identification markings; penalties; amending K.S.A. 8-255 and K.S.A. 2005 Supp. 22-4904 and 22-4905 and repealing the existing sections, by Senator Journey.

SB 407, An act increasing jurors' fees; amending K.S.A. 43-171 and repealing the existing section, by Committee on Judiciary.

SB 408, An act concerning crimes and punishment; relating to cruelty to animals and harming or killing certain dogs; amending K.S.A. 21-4317 and K.S.A. 2005 Supp. 21-4310, 21-4318 and 21-4704 and repealing the existing sections, by Committee on Judiciary.

SB 409, An act concerning election crimes; requiring certain reports, by Senator O'Connor.

SB 410, An act concerning public information; establishing training programs under the open records and open meetings acts, by Committee on Elections and Local Government.

SB 411, An act regulating traffic; concerning vehicles engaged in highway construction or maintenance operations; amending K.S.A. 8-1520a and 8-1531 and K.S.A. 2005 Supp. 8-2118 and repealing the existing sections, by Committee on Transportation.

SB 412, An act concerning motorized toy vehicles; relating to the regulation thereof; amending K.S.A. 8-1437, 8-1439, 8-1439a, 8-1575, 8-1701 and 8-2002 and K.S.A. 2005 Supp. 8-126, 8-1486 and 8-2118 and repealing the existing sections, by Committee on Transportation.

SB 413, An act regulating traffic; concerning golf carts; amending K.S.A. 8-128, 8-1701, 8-1717 and 8-2002 and K.S.A. 2005 Supp. 8-126, 8-1486 and 8-2118 and repealing the existing sections, by Committee on Transportation.

SB 414, An act concerning public utilities; relating to natural gas; enacting the gas safety and reliability policy act, by Committee on Utilities.

SB 415, An act concerning search warrants; relating to affidavit or testimony supporting probable cause; access; statute of limitations tolled; amending K.S.A. 22-2502 and repealing the existing section, by Senator Journey.

SB 416, An act concerning medicaid; relating to payroll agents for certain clients; care services by family members; concerning a waiver for home and community based services programs, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **SB 387**, **SB 388**, **SB 389 (Separately)**, **SB 390 (Separately)** **SB 393 (Separately)**.

Assessment and Taxation: **SB 384**, **SB 385**, **SB 389 (Separately)**, **SB 390 (Separately)**, **SB 391**, **SB 393 (Separately)**.

Commerce: **SB 382**.

Elections and Local Government: **SB 392**, **SB 397**.

Federal and State Affairs: **SB 394**.

Judiciary: **SB 380**, **SB 381**, **SB 398**.

Natural Resources: **SB 386**, **SB 395**.

Transportation: **SB 396**.

Ways and Means: **SB 383**.

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT ON AGING

January 10, 2006

Kathy Greenlee, Acting Secretary, Department on Aging, submitted the FY 2005 Annual Report. The report provides an overview of the department's activities and a statistical

reference for the past fiscal year. Also enclosed is the executive summary to the FY 2005 annual report for the Care, Assessment, Referral and Evaluation (CARE) program.

The Vice 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.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 201** be passed.

Also, **SB 200** be amended on page 1, in line 14, by striking "2004" and inserting "2005";

On page 2, in line 30, by striking "2004" and inserting "2005";

On page 5, in line 2, by striking "2004" and inserting "2005";

In the title, in line 10, by striking "2004" and inserting "2005"; and the bill be passed as amended.

SB 342 be amended on page 1, after line 22, by inserting the following:

"(b) Obstruction of a medical fraud investigation is a severity level 9, nonperson felony.";

Also on page 1, in line 23, by striking "(b)" and inserting "(c)";

On page 2, in line 15, before "all" by inserting: "except as otherwise provided by law.;" and the bill be passed as amended.

Committee on **Transportation** recommends **SB 371** be passed.

Also, **SB 373** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

SB 372 be amended on page 2, in line 25, before the period by inserting ", except that no appurtenance may extend further than the rearview mirrors. Such mirrors may only extend the distance necessary to provide the required field of view before the appurtenances were attached"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 271** be amended on page 1, in line 14, by striking "2004 Supp.;"

On page 3, in line 8, by striking "2004 Supp.;" in line 15, by striking "\$50" and inserting "\$25"; in line 19, by striking "\$150" and inserting "\$100"; in line 21, by striking "\$200" and inserting "\$150"; in line 23, by striking "\$150" and inserting "\$100"; in line 25, by striking "\$200" and inserting "\$150"; in line 36, by striking "\$25" and inserting "\$10"; in line 39, by striking "\$150" and inserting "\$75";

On page 4, in line 4, by striking "\$75" and inserting "\$25"; in line 5, by striking "2005" and inserting "2006"; in line 8, by striking "2005" and inserting "2006"; in line 27, by striking "2004 Supp.;"

On page 1, in the title, in line 10, by striking "2004 Supp." 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 Donovan in the chair.

On motion of Senator Donovan the following report was adopted:

Recommended **SB 349** be passed.

SB 40 be amended by adoption of the committee amendments, and the bill be passed as amended.

HB 2129 be amended by adoption of the committee amendments, be further amended by motion of Senator Vratil as amended by Senate Committee, on page 1, in line 15, by striking "2004" and inserting "2005";

On page 2, in line 1, by striking "On and after July 1, 2005, such attorney shall be com-"; by striking all in line 2 and inserting "Such"; in line 16, by striking "2004" and inserting "2005";

In the title, in line 11, by striking "2004" and inserting "2005", and **HB 2129** be passed as further amended.

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 40**, **SB 349**; **HB 2129** were advanced to Final Action and roll call.

SB 40, An act concerning the probate code; relating to notice to surviving spouse; amending K.S.A. 59-2233 and repealing the existing section.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Allen, Apple, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Barnett, Wagle.

The bill passed, as amended.

SB 349, An act concerning telecommunications; relating to the Kansas universal service fund; amending K.S.A. 66-2008 and repealing the existing section.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Allen, Apple, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wilson, Wysong.

Absent or Not Voting: Barnett, Wagle.

The bill passed.

HB 2129, An act concerning criminal procedure; relating to indigent defense services; amending K.S.A. 2005 Supp. 22-4507 and repealing the existing section.

On roll call, the vote was: Yeas 30, Nays 7, Present and Passing 1, Absent or Not Voting 2.

Yeas: Allen, Apple, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, McGinn, O'Connor, Petersen, Pine, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wilson, Wysong.

Nays: Huelskamp, Morris, Ostmeyer, Palmer, Pyle, Schmidt D, Taddiken.

Present and Passing: Journey.

Absent or Not Voting: Barnett, Wagle.

The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Friday, January 20, 2006.

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

PAT SAVILLE, *Secretary of the Senate*.

