

Journal of the Senate

FORTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 15, 2006—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,
Sometimes I wish I could move...
That an emergency be declared,
The rules suspended,
And everyone would vote
That bigotry be ended.
That an emergency be declared,
The rules suspended,
And our troops in Iraq
Will be commended.
That an emergency be declared,
The rules suspended,
And everyone would vote
That all fences be mended.
That an emergency be declared,
The rules suspended,
And that the hand of friendship
Be extended.
That an emergency be declared,
The rules suspended,
And that all the less fortunate
Will be befriended.
That an emergency be declared,
The rules suspended
And all the terrorists
Be apprehended.
That an emergency be declared,
The rules suspended,
And that faith in God
Be recommended.
I pray in the Name of Jesus Christ,
AMEN

POINT OF PERSONAL PRIVILEGE

Senator Haley rose on a point of personal privilege to introduce his four children who were on spring break visiting the Senate, Mariah (10), Daniel (9), Dawson (5), and Malori (4).

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **SB 591**.

Federal and State Affairs: **SB 590**.

Ways and Means: **HB 2949**, **HB 2956**.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 453**, **SB 461**.

Also, passage of **SB 207**, as amended by House Substitute for **SB 207**.

The House concurs in Senate amendments to **HB 2610**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Vratil moved the Senate concur in house amendments to **SB 40**.

SB 40, An act concerning the probate code; relating to notice to surviving spouse; amending K.S.A. 2004 Supp. 59-2233 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The Senate concurred.

Senator Vratil moved the Senate concur in house amendments to **SB 355**.

SB 355, An act concerning the probate code; relating to appeals; amending K.S.A. 59-2401, 59-2402a and 59-2408 and repealing the existing sections; also repealing K.S.A. 59-2407.

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

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

The Senate concurred.

Senator Journey moved the Senate concur in house amendments to **SB 418**.

SB 418, An act enacting the personal and family protection act; providing for licensure to carry certain concealed weapons; prohibiting certain acts and prescribing penalties for violations; amending K.S.A. 2005 Supp. 12-4516, 21-4201 and 21-4619 and repealing the existing sections.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Emler, Gilstrap, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson.

Nays: Allen, Betts, Brungardt, Francisco, Goodwin, Lee, Reitz, Schmidt V, Vratil, Wysong.

The Senate concurred.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "AYE" on all measures and wish to explain my vote on **SB 418** (ccw or the Family Personal Protection Act):

I have stated publicly that although I support the right of law abiding citizens to license, register and carry concealed weapons, I would consider upholding (as I have *consistently* in the past) a Gubernatorial Veto. With the House Amendment excluding any place of worship now, I am less constrained to do so though breaking my record after these dozen years in the Legislature, would greatly distress me.—DAVID HALEY

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 25** and requested a conference committee be appointed.

The President appointed Senators Vratil, Bruce and Goodwin as a conference committee on the part of the Senate.

FINAL ACTION ON CONSENT CALENDAR

HB 2678, HB 2831 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

HB 2678, An act repealing K.S.A. 65-1661; relating to renal dialysis facility pharmacies.

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

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

The bill passed.

HB 2831, An act concerning pharmacists and pharmacy; relating to the accreditation council for pharmacy; amending K.S.A. 65-1635a 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

SB 382, An act concerning workforce development; implementing the developing responsible youth act, was considered on final action.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

Nays: Bruce, Donovan, Huelskamp, O'Connor, Ostmeyer, Palmer, Pyle, Taddiken, Wagle, Wilson.

The bill passed, as amended.

Sub SB 539, An act concerning casualty insurance companies; relating to certain requirements regarding filing rates, forms and premiums; amending K.S.A. 40-954 and 40-955 and K.S.A. 2005 Supp. 40-216 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The substitute bill passed.

SB 549, An act concerning libraries; creating the state library of Kansas board and providing for the powers and duties thereof; abolishing the state library advisory commission and the Kansas library network board; concerning the basis for property tax levies of public libraries; amending K.S.A. 75-2546, 75-2548, 75-2549, 75-2549b, 75-2550, 75-2550a, 75-2551, 75-2552, 75-2576, 75-2577 and 79-2930 and K.S.A. 2005 Supp. 75-2562 and repealing the existing sections; also repealing K.S.A. 75-2578, 75-2579, 75-2580, 75-2581, 75-2582, 75-2583, 75-2584 and 75-2586, 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 575, An act enacting the Topeka/Shawnee county riverfront authority act; creating a riverfront authority and prescribing the powers and duties thereof, 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 585, An act concerning sales taxation; relating to exemptions; TLC for children and families, inc.; amending K.S.A. 2005 Supp. 79-3606 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SCR 1623, A concurrent resolution concerning funeral picketing, 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Present and Passing: Francisco.

The resolution was adopted, as amended.

SCR 1624, A concurrent resolution supporting a Taiwan-United States free trade agreement, 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The resolution was adopted.

HB 2104, An act concerning the uniform commercial code; concerning securities interests in oil and gas production; amending K.S.A. 2005 Supp. 84-9-324 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

HB 2616, An act concerning criminal procedure; relating to preliminary examinations; amending K.S.A. 2005 Supp. 22-2902 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Jordan, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barone, Betts, Haley, Hensley, Huelskamp, Journey, Kelly, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Steineger.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: **HB 2616** upsets the delicate balance of fairness in our criminal justice system. It distorts the purpose of a preliminary hearing to give the state an unfair advantage in criminal prosecution. The proponents of the legislation cite State V Trudell 243 Kan.29. That citation misconstrues that case and its intended meaning.

The main reason in support of the legislation submitted by its proponents was to make the witness comfortable in court testifying. Other means are available to accomplish that goal such as rehearsing testimony in a courtroom after closing of the courthouse rather than incurring the additional expense of court reporters and other staff to have a preliminary hearing that the defendant intends to waive. Sole purpose of a preliminary hearing is to establish probable cause of a crime and that the defendant committed that crime. When a defendant waives preliminary hearing, he admits both of those points.

HB 2616 will taint the jury pool and deny the defendant the right to cross examination during trial. **HB 2616** will allow prosecutors to abuse the criminal process in an effort to gain unfair advantage. Kansas juries deserve to hear the facts themselves and not a transcript of a hearing.—PHILLIP B. JOURNEY

Senators Barone, Betts, Haley, Hensley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Journey on **HB 2616**.

HB 2705, An act designating a portion of interstate highway 135 as the Vietnam war veterans memorial highway, 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HB 2716, An act concerning water; granting an easement for construction of diversion works along the Kansas river, 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HB 2758, An act designating part of K-177 and U.S. 24 highways as the Coach Bill Snyder highway; amending K.S.A. 68-1022 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HB 2786, An act concerning purchases by public entities; amending K.S.A. 72-8201 and repealing the existing section; also repealing K.S.A. 2005 Supp. 75-3317a, 75-3319a, 75-3320a and 75-3322a, 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

HB 2830, An act concerning pharmacists and pharmacy; relating to registration of pharmacy technicians; amending K.S.A. 2005 Supp. 65-1663 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HB 2833, An act concerning the Kansas veterinary practice act; amending K.S.A. 47-824, 47-834 and 47-840 and K.S.A. 2005 Supp. 47-816 and 47-825 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

HB 2835, An act concerning the Kansas veterinary practice act; amending K.S.A. 47-830 and 47-839 and K.S.A. 2005 Supp. 47-842 and repealing the existing sections, was considered on final action.

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

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

Nays: O'Connor.

The bill passed.

HB 2927, An act concerning cities; relating to the effective date of certain fees imposed under franchise ordinances, 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HB 2951, An act relating to road and highways; designating a portion of United States highway 36 the World War I veterans memorial highway; designating interstate highway 335 as the United States submarine veterans memorial highway, 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: Allen, 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, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

REPORT ON ENROLLED BILLS

SR 1822, **SR 1823** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 15, 2006.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2798** be amended on page 1, in line 40, by striking all after the first period; and the bill be passed as amended.

Committee on **Commerce** recommends **HB 2560** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **HB 2772**, as amended by House Committee of the Whole, be amended on page 2, in line 13, by striking "classify" and inserting "misclassify"; also in line 13, by striking "purposes" and inserting "the sole or primary purpose"; in line 21, by striking all after "(b)"; in line 22, by striking all before "Any"; also in line 22, by striking "for"; by striking all in lines 23 and 24; in line 25, by striking all before the period and inserting "shall be subject to a penalty pursuant to K.S.A. 79-3228, and amendments thereto"; by striking all in lines 26 through 43;

On page 3, by striking all in lines 1 through 6;

And by renumbering the remaining sections accordingly;

On page 5, in line 22, after "information" by inserting "of persons suspected of violating section 2, and amendments thereto,."; also in line 22, by striking "attorney general" and inserting "staff attorneys of the department of labor";

In the title, in line 13, by striking all after "employment" where it appears the first time; in line 14, by striking "law";

and the bill be passed as amended.

Committee on **Education** recommends **HB 2578**, as amended by House Committee, be amended on page 1, in line 33, by striking all after "education"; in line 34, by striking

all before the semicolon; in line 35, by striking all after “(d)”;

in line 36, by striking all before “ascribed” and inserting “special education” has the meaning”;

On page 2, in line 29, by striking all after “education”;

in line 32, by striking all after “education”;

in line 36, by striking “of children with disabilities”;

in line 41, by striking all after “education”;

On page 4, in line 37, by striking “to children with disabilities”;

in line 39, by striking “to children with disabilities”;

and the bill be passed as amended.

Also, **HB 2634** be amended on page 1, following line 32, by inserting:

“Sec. 2. (a) As used in this section:

(1) “School district” means unified school district No. 404, unified school district No. 493, unified school district No. 499 and unified school district No. 508.

(2) “Property” means any property, and improvements thereon, comprising a racetrack gaming facility or lottery gaming facility under the Kansas expanded lottery act located in Cherokee county.

(3) “State aid” means general state aid, supplemental general state aid, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the school district finance and quality performance act or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the levying of school taxes, $\frac{1}{4}$ of the assessed valuation of such property shall be assigned to each of the school districts.

(c) The provisions of this section shall not apply if the property is not or ceases to be used as a racetrack gaming facility or a lottery gaming facility under the Kansas expanded lottery act.”;

And by renumbering the remaining section accordingly; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SCR 1621** be adopted.

Committee on **Financial Institutions and Insurance** recommends **HB 2159**, as amended by House Committee, **HB 2659**, as amended by House Committee, be passed.

Committee on **Ways and Means** recommends **HB 2394**, as amended by House Committee, be passed.

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 Umbarger in the chair.

On motion of Senator Umbarger the following report was adopted:

Recommended **HB 2595**, **HB 2645**, **HB 2663**, **HB 2756** be passed.

The committee report on **HB 2875** recommending a **S Sub for HB 2875** be adopted, and the substitute bill be passed.

HB 2554 be amended by adoption of the committee amendments, be further amended by motion of Senator O'Connor as amended by Senate Committee, on page 3, after line 36, by inserting the following:

“(5) If charges against a person, who is required to submit such specimen or sample, are dismissed, a conviction against such person is expunged or a verdict of acquittal with regard to such person is returned, then upon the person’s request, the Kansas bureau of investigation shall forthwith destroy such specimen or sample, but retain the record in the Kansas bureau of investigation database.

(6) If a person, who is required to submit such specimen or sample, has not been charged and the statute of limitations on the crime charged has expired, then upon the person’s request, the Kansas bureau of investigation shall forthwith destroy such specimen or sample, but retain the record in the Kansas bureau of investigation database.”;

On page 5, in line 5, by striking “expunged and”;

in line 6, by striking “or acquittal at trial” and inserting “expungement, acquittal at trial or statute of limitations expiration”

Senator Haley’s motion to lay the bill on the table was ruled out of order.

Senator Haley then moved **HB 2554** be rereferred to the Committee on Judiciary.

The motion failed, and **HB 2554** be passed as further amended.

The following amendment offered by Senator Journey to amend **HB 2554**, was rejected:

As amended by Senate Committee, on page 2, in line 23, by striking “be punishable as contempt of court and”; in line 42, by striking “at the same time such person is”; in line 43, by striking all before the period and inserting “after a court determination that probable cause exists for the arrest or placement into custody”;

On page 3, in line 4, by striking “at the same time”; in line 5, by striking all before the period and inserting “after a court determination that probable cause exists for the arrest or placement into custody”; in line 23, by striking all after the stricken material; by all striking all in lines 24 through 27; in line 28, by striking all before the period and inserting “Such DNA samples shall be submitted to the Kansas bureau of investigation for placement into the DNA database. The court shall ensure, upon the person’s first appearance, that such DNA samples have been taken and submitted to the Kansas bureau of investigation”; after line 36, by inserting the following:

“(5) The clerk of the district court shall notify the Kansas bureau of investigation of final disposition of the criminal proceedings. If the charge for which the specimen was taken is dismissed or the defendant is acquitted at trial, the Kansas bureau of investigation shall destroy the specimen and all records thereof, provided there is no other pending qualifying warrant for an arrest, charges or other conviction that would otherwise require the specimen remain in the database.”;

On page 5, in line 28, by striking all after the first comma; in line 29, by striking all before the period and inserting “refuses to provide a DNA specimen or fails to cooperate with the collection of the specimens and any deliberate act by that person intended to impede, delay or stop the collection of the specimens shall be punishable as contempt of court”; in line 30, after “a” by inserting “DNA”; also in line 30, by striking “upon arrest.”; in line 31, by striking all before “pursuant” and inserting “after a court determination that probable cause exists for the arrest or placement into custody”

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, March 16, 2006.

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

PAT SAVILLE, *Secretary of the Senate.*

