

Journal of the Senate

THIRTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, January 25, 2001—2:30 p.m.

The Senate was called to order by President Dave Kerr.

The roll was called with thirty-eight senators present.

Senators Donovan and Harrington were excused.

President Kerr introduced as guest Chaplain, Rev. John A. De Veaux, Jr., St. John A.M.E. Church, Topeka, Kansas, who delivered the invocation:

Eternal, almighty, ever-loving, God, we give thanks for these who have sought and won the privilege and opportunities of service as guardians, defenders, and refiners of what is noble and just in the laws of this state, and, when necessary, the tasks of designing and enacting new laws through which equality, justice and well-being are enhanced for all the people.

Let thy presence be known, we pray, now and in every deliberation and every action that transpires among these honorable servants, so that all of us, great and small, elected or appointed, will always be mindful that all will be judged and held accountable in history and in thy sight, by how well we measure up to thy requirement to do justly, love mercy, and walk humble with thee. Continuously set before us the clear understanding that, as thy sons and daughters, we are brothers and sisters, and are all equally precious.

In this turbulent time and with the awesome decisions which must be made, give courage, wisdom, energy, and strength sufficient for making this legislative year a time of great and lasting accomplishments.

We ask that thou wouldst work through us to bring more quickly a society in which all are safe from violence, hatred, abuse, prejudice, and poverty. Help us to make Kansas a model state from which other states may learn how to use resources properly, educate youth excellently, and prosper economically.

Focus our eyes on the stars in spite of the difficulties which threaten to deter us from the journey, and, by thy grace, let us succeed.

With thankful hearts, we praise thee, O God. Amen.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 125, An act concerning elections; relating to technical clean up amendments; amending K.S.A. 25-205, 25-213, 25-413, 25-611, 25-616, 25-618, 25-3102 and 25-3801 and repealing the existing sections, by Committee on Elections and Local Government.

SB 126, An act concerning elections; relating to recounts for statewide offices; amending K.S.A. 25-3107 and repealing the existing section, by Committee on Elections and Local Government.

SB 127, An act concerning elections; relating to election procedures; amending K.S.A. 25-205, 25-302a, 25-303, 25-1122, 25-2309, 25-3602, 25-4306, 25-4310 and 25-4320 and repealing the existing sections, by Committee on Elections and Local Government.

SB 128, An act concerning election crimes; amending K.S.A. 25-2415 and 25-2430 and repealing the existing sections, by Committee on Elections and Local Government.

SB 129, An act relating to property taxation; concerning the valuation of land devoted to agricultural use; amending K.S.A. 2000 Supp. 79-1476 and repealing the existing section, by Senators Clark, Barnett, Corbin, Emler, Goodwin, Huelskamp, Jackson, Lee, Lyon, Morris, Pugh, Salmans, Taddiken, Teichman, Tyson and Umbarger.

SB 130, An act concerning trust companies; relating to the powers thereof; amending K.S.A. 2000 Supp. 9-2103 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 131, An act concerning the operation of a motor vehicle while under the influence of alcohol or drugs; criminal activity, punishment; amending K.S.A. 2000 Supp. 8-1012 and 8-1567a and repealing the existing sections, by Committee on Judiciary.

SB 132, An act concerning crimes, criminal procedure and punishment; relating to aggravated battery; amending K.S.A. 21-3414 and repealing the existing section, by Committee on Judiciary.

SB 133, An act concerning Arbor day; relating to the observance thereof; amending K.S.A. 35-204 and repealing the existing section, by Senators Jackson, Adkins, Allen, Brownlee, Brungardt, Clark, Emler, Gilstrap, Haley, Harrington, Huelskamp, Jenkins, Jordan, Lyon, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson and Umbarger.

SB 134, An act providing for a professional evaluation of school district finance, by Committee on Education.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **SB 124**; **HB 2049**, **HB 2050**, **HB 2051**, **HB 2052**, **HB 2053**.

Elections and Local Government: **SB 107**, **SB 108**, **SB 109**, **SB 114**.

Commerce: **SB 121**.

Financial Institutions & Insurance: **SB 123**.

Judiciary: **SB 116**, **SB 117**, **SB 119**.

Public Health and Welfare: **SB 118 (separately)**, **SB 120**, **SB 122**.

Transportation: **SB 115**.

Utilities: **SB 111**, **SB 112**.

Ways and Means: **SB 110**, **SB 113**, **SB 118 (separately)**; **HB 2022**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2035**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2035 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1806—

A RESOLUTION congratulating and commending Bill Whim.

WHEREAS, Bill Whim, a truck driver for ABF Freight Systems in Kansas City, has been named the 2000 National Truck Driver of the Year by the American Trucking Associations; and

WHEREAS, Bill Whim, who was also named the 2000 Truck Driver of the Year by the Kansas Motor Carriers Association, is the only driver to be given this prestigious national award twice; and

WHEREAS, Bill Whim, who resides in DeSoto, Kansas, with his wife of 44 years, Charlotte, was bestowed this honor for his stellar safety record of five million accident-free miles in 49 years of driving and his dedication to the safety of truck drivers and others on the highways; and

WHEREAS, The Kansas Motor Carriers Association is proud to have three national drivers in its membership, Bill Whim in 1978 and 2000; Leroy Likins of Farmland Industries in 1997; and David McDonald of Roadway Express in 1996; and

WHEREAS, Bill Whim attributes his safety record to four rules: Don't speed, don't pass on hills or curves, pay attention to everything going on around you and don't follow too closely; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That Bill Whim be congratulated and commended for being named the 2000 National Truck Driver of the Year and for his 49 years of safe truck driving; and

Be it further resolved: That the Secretary of the Senate be directed to send four enrolled copies of this resolution to the Kansas Motor Carriers Association, Post Office Box 1673, Topeka, Kansas 66601-1673.

On emergency motion of Senator O'Connor **SR 1806** was adopted unanimously. Senator O'Connor introduced and welcomed Bill Whim and wife Charlotte.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Executive Director, Kansas Lottery: K.S.A. 74-8703

Edwin A. Van Petten, serves at the pleasure of the Governor

Also **SB 32** 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 **Financial Institutions and Insurance** recommends **SB 19** be amended on page 1, in line 15, by striking "at least"; in line 16, after "visit" by inserting "or receive a referral from"; in line 25, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Also **SB 29** be amended on page 3, in line 2, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 20** be amended on page 1, after line 38, by inserting:

"Sec. 2. K.S.A. 17-1773 is hereby amended to read as follows: 17-1773. (a) The commission of any act or practice declared to be a violation of this act shall render the violator liable to the aggrieved contributor, or the state or a county as provided in subsection (c), for the payment of a civil penalty, in a sum set by the court of not more than ~~\$2,000~~ \$5,000 for each violation. An aggrieved contributor is not a required party in actions brought by the attorney general or a county or district attorney pursuant to this act.

(b) Any person who willfully violates the terms of any injunction or court order issued pursuant to this act shall forfeit and pay a civil penalty of not more than \$10,000 per violation, in addition to other penalties that may be imposed by the court, as the court shall deem necessary and proper. For the purposes of this act, the district court issuing an injunction shall retain jurisdiction, and in such cases, the attorney general, acting in the name of the state or the appropriate county attorney or district attorney may petition for recovery of civil penalties.

(c) In administering and pursuing actions under this act, the attorney general and the county attorney or district attorney are authorized to sue for and collect reasonable expenses and investigation fees as determined by the court. Civil penalties or contempt penalties sued for and recovered by the attorney general shall be paid into the general fund of the state. Civil penalties and contempt penalties sued for and recovered by the county attorney or district attorney shall be paid into the general fund of the county where the proceedings were instigated.

New Sec. 3. (a) If any person is found to have violated any provision of the charitable organizations and solicitations act, and such violation is committed against elder or disabled persons, in addition to any civil penalty otherwise provided by law, the court may impose an additional civil penalty not to exceed \$10,000 for each such violation.

(b) In determining whether to impose a civil penalty as provided in this section and the amount of such civil penalty, the court shall consider the extent to which one or more of the following factors are present:

- (1) Whether the defendant's conduct was in disregard of the rights of the elder or disabled person;
- (2) whether the defendant knew or should have known that the defendant's conduct was directed to an elder or disabled person;
- (3) whether the elder or disabled person was more vulnerable to the defendant's conduct because of age, poor health, infirmity, impaired understanding, restricted mobility or disability than other persons and actually suffered substantial physical, emotional or economic damage resulting from the defendant's conduct;
- (4) whether the defendant's conduct caused an elder or disabled person to suffer any of the following:
 - (A) Mental or emotional anguish;
 - (B) loss of or encumbrance upon a primary residence of the elder or disabled person;
 - (C) loss of or encumbrance upon the elder or disabled person's principal employment or principal source of income;
 - (D) loss of funds received under a pension or retirement plan or a government benefits program;
 - (E) loss of property set aside for retirement or for personal or family care and maintenance;
 - (F) loss of assets essential to the health and welfare of the elder or disabled person; or
 - (G) any other factors the court deems appropriate.
- (c) As used in this section elder person and disabled person shall mean the same as provided in K.S.A. 2000 Supp. 50-676, and amendments thereto.
- (d) The provisions of this section shall be part of and supplemental to the charitable organizations and solicitations act.”;

And by renumbering sections 2 and 3 as sections 4 and 5;

Also on page 1, in line 39, by striking “is” and inserting “and 17-1773 are”;

Also on page 1, in the title, in line 10, after the semicolon, by inserting “violations of act, penalty; elder or disabled persons;”; also in line 10, after “17-1764” by inserting “and 17-1773”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 18 reported correctly engrossed January 24, 2001.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Friday, January 26, 2001.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

