

# Journal of the Senate

SIXTY-THIRD DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, April 26, 2001—10:00 a.m.

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

Heavenly Father,

When we encounter dilemmas such as those we face in this wrap-up session, I think it behooves us to once again recall the speech that Benjamin Franklin made to the Constitutional Convention as it was on the verge of breaking up on June 28, 1787.

He reminded the delegates that at the beginning of the Revolutionary War daily prayers had been uttered for divine protection. And these prayers had been heard and answered. He chided them for not remembering this.

Addressing the Chair, Franklin, who was 81 years of age, then said that the longer he lived, the more convincing proofs he had seen that "God governs in the affairs of men." He further remarked that if a sparrow cannot fall without God's notice, it was not probable that an empire could rise without His aid.

He went on to move that prayers imploring heaven's blessings on their deliberations be held every morning before they proceeded with business.

Ironically, Ben Franklin still has the reputation of being one of the least religiously orthodox of our founding fathers.

O God, it is understandable that we may be inclined to dismiss our daily prayer as merely a ceremonial act sandwiched between roll call and messages from the Governor, so remind us that the men who founded this nation considered prayer not only efficacious, but primarily responsible for saving the constitution.

Thus we humbly seek Your wisdom and Your aid in finding solutions to our problems that are pleasing to You.

I pray in the Name of Jesus Christ,

AMEN

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Committee of the Whole: **SB 363**.

Financial Institutions & Insurance: **SB 366**.

Ways and Means: **SB 364, SB 365**.

## REFERRAL OF APPOINTMENTS

The following appointments made by the Governor and submitted to the senate for confirmation, were referred to Committees as indicated:

*Member, Kansas Development Finance Authority, Thomas C. Blackburn, effective upon the date of confirmation by the Senate to serve a four-year term ending January 15, 2005.*

(Commerce)

*Member, Kansas Development Finance Authority, John G. Montgomery, effective upon the date of confirmation by the Senate to serve a four-year term ending January 15, 2005.*

(Commerce)

*Member, Kansas Development Finance Authority, Thomas A. Page, effective upon the date of confirmation by the Senate to serve a four-year term ending January 15, 2005.*

(Commerce)

## COMMUNICATIONS FROM STATE OFFICERS

### OFFICE OF THE STATE LONG-TERM CARE OMBUDSMAN

April 20, 2001

In accordance with the provisions of K.S.A. 75-7306, Matthew Hickam, State Ombudsman, submitted the 2000 annual report for October 1, 1999 to September 30, 2000.

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.

## ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 161; S Sub for HB 2154, S Sub for HB 2155.**

## MESSAGE FROM THE HOUSE

Announcing passage of **HCR 5032.**

Passage of **SB 112**, as amended by **House Substitute for SB 112; Substitute SB 171**, as amended.

## INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HCR 5032** was thereupon introduced and read by title.

## CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 161**, submits the following report:

The House recedes from all of its amendments to the bill;

And your committee on conference agrees to further amend the bill, as printed with Senate Committee amendments, as follows:

On page 1, in line 14, before "Section" by inserting "New"; in line 21, after the period, by inserting "The policy shall provide for maintenance of a public record of all expenditures for payment of charges incurred by the school district through use of credit cards.";

On page 2, in line 1, before "Sec.", by inserting "New"; following line 11, by inserting two new sections as follows:

"Sec. 3. K.S.A. 72-8201 is hereby amended to read as follows: 72-8201. ~~At the time the state superintendent issues his order organizing any unified district, he shall, as a part of such order, include a provision disorganizing all of the school districts the main school building of which is in such unified district. The disorganizing parts of such order shall take effect on July 1, 1966, except as otherwise specifically provided in this act. The disorganizing parts of any organization order for a city or preunified district established prior to July 1, 1965, shall be July 1, 1965. Every organization order issued by the state superintendent pursuant to this act shall include a number assigned by him to each unified district organized by such order. Every organization order shall designate the home county of the unified district being organized.~~ Each unified *school* district shall be designated by the name and style of "unified school district No. \_\_\_\_\_ (the number designated by the state ~~superintendent board of education~~), \_\_\_\_\_ county (naming the home county of the unified *school* district), state of Kansas," and by such name may sue and be sued, execute contracts and hold such real and personal property as it may ~~require~~ *acquire*. Every unified

*school district shall possess the usual powers of a corporation for public purposes. The board of education of every unified school district may delegate to the superintendent of schools the power to execute contracts on behalf of the district for the purchase of goods and services if the value of such goods or services is less than \$10,000.*

Sec. 4. K.S.A. 72-8201 is hereby repealed.”;

By renumbering section 3 as section 5;

In the title, in line 11, after “cards”, by inserting “and to delegate the power to execute certain contracts to the superintendent of schools; amending K.S.A. 72-8201 and repealing the existing section”;

And your committee on conference recommends the adoption of this report.

DEENA HORST  
JOHN FABER  
DOUG GATEWOOD  
*Conferees on part of House*

DWAYNE UMBARGER  
JOHN VRATIL  
CHRISTINE DOWNEY  
*Conferees on part of Senate*

Senator Umbarger moved the Senate adopt the Conference Committee Report on **SB 161**.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelkamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Schodorf.

The Conference Committee report was adopted.

#### **INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senators Harrington, Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Huelkamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1847—

A RESOLUTION congratulating and commending Roger Myers.

WHEREAS, Roger Myers, statehouse reporter for the Topeka Capital-Journal, is retiring after covering 37 sessions of the Kansas Legislature; and

WHEREAS, Roger grew up in Salina and graduated from Salina High School. He graduated from Kansas State University in 1958 with a degree in journalism having been the editor of the K-State Collegian during the 1957 fall semester. After short stays with the Kansas City Star, the Hutchinson News, the Salina Journal and the U.S. Army, he joined the Topeka Daily Capital in 1960. After covering the 1963 and 1964 legislative sessions he left to work for Southwestern Bell for nine months but returned to the Daily Capital in 1964 where he has remained to this date. He was assigned full-time to the capital beat in 1966 and has continued in that capacity except for being sent to Washington, D.C. in 1973 to open the Capital's Washington bureau, an assignment which lasted for two years; and

WHEREAS, During his tenure as the Capital's statehouse reporter he has covered seven governors, Bill Avery, Robert Docking, Robert Bennett, John Carlin, Mike Hayden, Joan Finney and Bill Graves and several national political conventions including the 1968 Democratic National Convention in Chicago that nominated Hubert Humphrey and Edmund Muskie; the 1976 Republican National Convention in Kansas City, Mo., that nominated Gerald Ford and Bob Dole; the 1980 Democratic National Convention in San Francisco

that nominated Walter Mondale and Geraldine Ferraro; the 1988 Democratic National Convention in Atlanta that nominated Michael Dukakis and Lloyd Bentsen; and the 1996 Democratic National Convention in Chicago that renominated Bill Clinton and Al Gore; and

WHEREAS, Roger Myers served in the United States Army Reserve from 1959 to 1989 retiring with the rank of Colonel. He is a fraternity brother of Kansas Senator Pat Roberts and fellow newspaperman John Petterson; and

WHEREAS, Roger Myers has been a professional journalist of the highest order. He has made a career of knowing the participants in Kansas politics. But more importantly, he has been the source for Kansans, in and out of government, from which they learned of the impartial details of pending legislative action. He has been relied upon, day after day, and year after year, as the reliable source to provide budgetary details, the governor's position and pending leadership action on pertinent issues of the day. He has not been emotional, and he has not been biased, but he has been the bedrock of capitol reporting for his newspaper and his readers have been the better because of his devotion to his job, his employer, Kansas government and the people of Kansas. His daily articles will be sorely missed: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Roger Myers upon completion of 37 years of reporting Kansas political news, and wish him well in his postretirement activities; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide an en-rolled copy of this resolution to John Fish, Publisher, Topeka Capital-Journal and to Roger Myers, both at 616 SE Jefferson, Topeka, Kansas 66607.

On emergency motion of Senator Harrington **SR 1847** was adopted unanimously.

Family and friends present for the resolution were Don Myers, brother; John Fish, Publisher, The Topeka Capital Journal and his daughter, Hannah; Pete Goering, Executive Editor, The Topeka Capital Journal and Anita Miller, Managing Editor, The Topeka Capital Journal.

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

SENATE RESOLUTION No. 1848—

A RESOLUTION congratulating and commending Robert and Donna Talkington.

WHEREAS, Robert (Bob) Talkington, of Iola, served the state of Kansas for more than two decades by his membership in the House of Representatives from 1969-1972 and in the Senate from 1973-1988, which service in the Senate included being the Majority Leader from 1981-1984 and Senate President from 1985-1988; and as a member of the Kansas Board of Regents from 1995-1999, with service as Chairman from 1997-1998; and

WHEREAS, Throughout Bob Talkington's years of state service his wife, Donna Talkington, was always supportive and equally committed to public service; and

WHEREAS, The Senate is grateful for the years of public service provided by Bob and Donna Talkington; and

WHEREAS, Bob and Donna Talkington celebrated their 50th wedding anniversary on March 25, 2001: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That the Senate sends its congratulations and best wishes to Bob and Donna Talkington on the occasion of their 50th wedding anniversary and wishes them much happiness for the years ahead; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide an en-rolled copy of this resolution to Mr. and Mrs. Robert Talkington, 20 W. Buchanan, Iola, Kansas 66749.

On emergency motion of Senator Schmidt **SR 1848** was adopted unanimously.

#### REPORTS OF STANDING COMMITTEES

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

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

By the Governor:  
 State Civil Service Board: K.S.A. 75-2929a  
 James E. Lowther, term expires March 15, 2005  
 Thomas J. Corcoran, term expires March 15, 2005  
 Committee on **Ways and Means** recommends **SB 364** be passed.

#### COMMITTEE OF THE WHOLE

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

On motion of Senator Vratil the following report was adopted:

Recommended:

The committee report on **HB 2155** recommending a **S Sub for HB 2155** be adopted, and the substitute bill be passed.

#### FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **S Sub for HB 2155** was advanced to Final Action and roll call.

**S Sub for HB 2155**, An act concerning school districts; providing for waivers from duration of the school term due to disaster, 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The substitute bill passed.

On motion of Senator Oleen, the Senate recessed until 2:00 p.m.

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### AFTERNOON SESSION

The Senate met pursuant to recess with President Kerr in the chair.

#### MESSAGE FROM THE HOUSE

Announcing, the House accedes to the request of the Senate for a conference on **SB 205** and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

#### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **Substitute for HB 2468**, be amended by substituting a new bill to be designated as "Senate Substitute for Substitute for HOUSE BILL No. 2468," as follows:

"Senate Substitute for Substitute for HOUSE BILL No. 2468

By Committee on Agriculture

"AN ACT concerning animal diseases; relating to quarantines; concerning garbage feeding; relating to state of disaster emergency; amending K.S.A. 47-611, 47-617, 47-623, 47-1201, 47-1211, 47-1302, 47-1303, 47-1304, 47-1307, 48-904, 48-924 and 48-925 and repealing the existing sections."; and the substitute bill be passed.

Committee on **Federal and State Affairs** recommends **HB 2120**, as amended by House Committee of the Whole, be amended on page 3, by striking all in lines 30 through 43;

On page 4, by striking all in lines 1 through 5;

By renumbering sections 5 through 16 as sections 4 through 15, respectively;

Also on page 4, in line 7, following "and" by inserting "any"; following line 9, by inserting a paragraph as follows:

"Nothing in this section shall be construed as requiring the inspection of an amusement ride.";

On page 5, in line 32, by striking all after "(a)"; in line 33, by striking all before "are" and inserting "Any inspection certificates"; in line 34, by striking "5" and inserting "4"; in line 37, by striking "8" and inserting "7";

On page 6, in line 8, by striking "10" and inserting "9";

In the title, in line 12, by striking "inspection and"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 366** be amended on page 17, by striking all of lines 34 through 37 and inserting the following:

"Sec. 4. K.S.A. 40-3404 is hereby amended to read as follows: 40-3404. (a) Except for any health care provider whose participation in the fund has been terminated pursuant to subsection (i) of K.S.A. 40-3403 and amendments thereto, the board of governors shall levy an annual premium surcharge on each health care provider who has obtained basic coverage and upon each self-insurer for each fiscal year. This provision shall not apply to optometrists and pharmacists on or after July 1, 1991 nor to physical therapists on or after July 1, 1995, nor to health maintenance organizations on and after July 1, 1997. Such premium surcharge shall be an amount based upon a rating classification system established by the board of governors which is reasonable, adequate and not unfairly discriminating. The annual premium surcharge upon the university of Kansas medical center for persons engaged in residency training, as described in *paragraph (1) of subsection (r)(1)* of K.S.A. 40-3401, and amendments thereto, shall be based on an assumed aggregate premium of \$600,000. The annual premium surcharge upon the employers of persons engaged in residency training, as described in *paragraph (2) of subsection (r)(2)* of K.S.A. 40-3401, and amendments thereto, shall be based on an assumed aggregate premium of \$400,000. The surcharge on such \$400,000 amount shall be apportioned among the employers of persons engaged in residency training, as described in *paragraph (2) of subsection (r)(2)* of K.S.A. 40-3401, and amendments thereto, based on the number of residents employed as of July 1 of each year. *The annual premium surcharge upon any nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be based upon an assumed aggregate premium of \$10,000. The surcharge on such assumed aggregate premium shall be apportioned among all such nonprofit corporations.*

(b) In the case of a resident health care provider who is not a self-insurer, the premium surcharge shall be collected in addition to the annual premium for the basic coverage by the insurer and shall not be subject to the provisions of K.S.A. 40-252, ~~40-1113~~ 40-955 and 40-2801 *et seq.*, and amendments thereto. The amount of the premium surcharge shall be shown separately on the policy or an endorsement thereto and shall be specifically identified as such. Such premium surcharge shall be due and payable by the insurer to the board of governors within 30 days after the annual premium for the basic coverage is received by the insurer, but in the event basic coverage is in effect at the time this act becomes effective, such surcharge shall be based upon the unearned premium until policy expiration and annually thereafter. Within 15 days immediately following the effective date of this act, the board of governors shall send to each insurer information necessary for their compliance with this subsection. The certificate of authority of any insurer who fails to comply with the provisions of this subsection shall be suspended pursuant to K.S.A. 40-222, and amendments thereto, until such insurer shall pay the annual premium surcharge due and payable to the board of governors. In the case of a nonresident health care provider or a self-insurer, the premium surcharge shall be collected in the manner prescribed in K.S.A. 40-3402, and amendments thereto.

(c) In setting the amount of such surcharge, the board of governors may require any health care provider who has paid a surcharge for less than 24 months to pay a higher surcharge than other health care providers.";

And by renumbering the remaining sections accordingly;

Also on page 17, in line 38, after "40-3403" by inserting ", 40-3404";

On page 1, in the title, in line 10, after "40-3403" by inserting ", 40-3404"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 365** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 365," as follows:

"Substitute for SENATE BILL No. 365

By Committee on Ways and Means

"AN ACT concerning certain employer contributions; amending K.S.A. 2000 Supp. 74-4927 and 74-4927f and repealing the existing sections.";

and the substitute bill be passed.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Friday, April 27, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

