

# Journal of the Senate

TWENTY-SIXTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, February 19, 2002—2:30 p.m.

The Senate was called to order by President Dave Kerr.  
The roll was called with forty senators present.

In honor of Armed Forces Day, President Kerr introduced as guest chaplain, Col. Harold Roller, Command Chaplain, Fort Leavenworth, who delivered the invocation:

O God, by whose light we see and by whose provisions we live, we thank You once again for the wonder of all creation. At the opening of this senate, we are grateful for the dedication and hard work of elected officials and public servants. These dedicated persons form the very foundation of our democratic way of life. Grant them wisdom, strength, and patience in the performance of their duties. We would ask also, O Lord, that you increase the understanding of our citizenry. May we all have a deeper appreciation for the essence of compromise, consensus, and open-mindedness. Guide us all we pray from moment to moment, that in all things, at all times, we might remember we are called to be persons of honor, serving each other. We pray this trusting in You. Amen.

Senator Morris led Senators and their guests in the Pledge of Allegiance.

## RECOGNITION

Following up with the resolutions on Friday, February 15, 2002, congratulating and commending the Junior ROTC on Armed Forces Day, Senator Haley and Senator Hensley gave special recognition to Jermaine Rush, representing Wyandotte County, and Amber Cole, representing Shawnee County.

## GUESTS

President Kerr introduced and welcomed special guests in the Chamber to help celebrate Armed Forces Day: John Montgomery, Chairman of the Governor's Military Affairs and Coordinating Council, Junction City; Bud Burke, Member of the Governor's Military Affairs and Coordinating Council, Lawrence; Dean Campbell, Member of the Governor's Military Affairs and Coordinating Council, Manhattan; Lt. General (Retired) Robert Arter, Member of the Governor's Military Affairs and Coordinating Council, Ft. Leavenworth; Major General Greg Gardner, Adjutant General of the State of Kansas and Member of the Governor's Military Affairs and Coordinating Council, Topeka; Mayor Butch Felker, Member of the Governor's Military Affairs and Coordinating Council, Topeka; Fred Schwien, Deputy Secretary of the Kansas Department of Commerce and Housing; Anderson Chandler, Member of the Governor's Military Affairs and Coordinating Council, Topeka; Lt. Colonel Gary Heer, Member of the Governor's Military Affairs and Coordinating Council, and Deputy Commander of the Kansas City District Corps of Engineers; Colonel Cal Johnson, 35th Division Artillery Commander, Hutchinson; and Colonel Jim Hower, 69th Troop Command Commander, Wichita.

President Kerr recognized the Adjutant General of Kansas, Major General Greg Gardner, to make a few remarks:

Mr. President, Senators, and fellow Kansans, good afternoon—it is an honor to join you today. We appreciate your taking the time to recognize military members and their families with this special day in your legislative session.

September 11th reminded us of the critical role our nation's military plays in our society. Today our soldiers, airmen, marines, sailors—Active, Guard and Reserve serve at home and abroad supporting Operations Noble Eagle and Enduring Freedom.

Kansas citizen soldiers and airmen are providing security at commercial airports and military facilities across the state. Our Air Guard Security Forces from Topeka and Wichita are deployed in the US and overseas. The 134th Air Control Squadron from Wichita was our first Guard unit mobilized post 9-11 to help protect the skies above us. Nearly 400 Kansan citizen soldiers from 2nd Battalion, 137th Infantry from Kansas City, Lawrence, and Wichita are mobilized and on their way to Europe to provide security for our forces abroad. In the recent ice storm, which will be the most expensive disaster in Kansas history, our Guardsmen provided generators to nursing homes, water and sewage treatment plants, started cleaning up the first weekend after the storm and are still at it today in Chanute and Humboldt. All of these citizen soldiers and airmen responded to the call of duty with pride and professionalism.

Family support is absolutely critical to our success. Our families are doing well enduring the sacrifices and adjusting to maintain the homefront. I am very proud to report that last year, our Army Guard's Target Acquisition Battery from Larned and Great Bend won the Department of Defense Family support award. What's more, last Friday at the Pentagon I joined our Air Guard wing from Wichita, the 184th Bomb Wing, to receive this year's DoD Family Support Award. It's just incredible, Kansas best in the nation two years in a row—its unheard of.

But our success requires even more. The employers and coworkers of our Guard members take up the slack and adjust to the challenges in the work place when their Guardsmen are absent. Employer support is critical to our nation's cause.

Your actions as legislators are also an integral to our success. Two years ago, you passed the "Aging Armories" bond bill. It will allow us to renovate our crumbling armories over 6 years—giving our soldiers a place to work that meets code and doesn't leak—we thank you. Last year you raised tuition assistance for Kansas Guard members and our Army Guard went from 48th to 10th in the nation for recruiting and retention. Certainly Kansas benefits more financially than it invests, but consider this, "what other tuition recipients in Kansas serve the state in times of emergency?" Providing educational assistance to Kansas Guard members is the right thing to do and we thank you again.

Much has changed since Sept 11th. However, our citizens still enjoy freedoms others in the world can only dream about. As we strive to juggle security and personal freedom, we are poignantly reminded. . . .

It was the soldier not the reporter, who gave us freedom of the press.

It was the soldier not the poet, who gave us freedom of speech.

It was the soldier not the campus organizer, who gave us freedom to demonstrate

It is the soldier who salutes the flag, who serves beneath the flag and whose coffin is draped by the flag who allows the protester to burn the flag.

Senators, your actions demonstrate a genuine care and belief that our military is important to our state and nation. On behalf of the men and women in uniform serving Kansas and our nation, I say thank you for your support.

#### **INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were introduced and read by title:

**SB 624**, An act relating to motor vehicles; providing for the issuance of the choose life license plate; amending K.S.A. 8-1,141 and repealing the existing section, by Committee on Federal and State Affairs.

**SB 625**, An act concerning fire safety and prevention; relating to the powers and duties of the state fire marshal; amending K.S.A. 2001 Supp. 31-133a and repealing the existing section, by Committee on Federal and State Affairs.

**SB 626**, An act concerning property taxation; relating to limitations upon certain property tax exemptions relating to certain school district levies; amending K.S.A. 2001 Supp. 79-201a and repealing the existing section, by Committee on Federal and State Affairs.

**SB 627**, An act concerning the Kansas national guard; relating to pay and allowances; amending K.S.A. 2001 Supp. 48-225 and repealing the existing section, by Committee on Federal and State Affairs.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **SB 620**.

Elections and Local Government: **HB 2607**.

Natural Resources: **HB 2624**, **HB 2679**.

Federal and State Affairs: **SB 621**, **SB 622**, **SB 623**.

Ways and Means: **SB 619**.

#### ORIGINAL MOTION

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2145**.

The President appointed Senators Donovan, Salmans and Gooch as conferees on the part of the Senate.

#### REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 424**, **SB 540** be passed.

Committee on **Education** recommends **SB 488** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 488," as follows:

"Substitute for SENATE BILL No. 488

By Committee on Education

"AN ACT concerning schools; relating to the closure of school buildings; amending K.S.A. 2001 Supp. 72-8233 and repealing the existing sections; also repealing K.S.A. 72-8213."; and the substitute bill be passed.

Committee on **Federal and State Affairs** recommends **SB 439** be amended on page 6, in line 6, by striking "Except as provided by" and inserting "(1) Except as provided by paragraph (2) of"; by striking all in lines 11 and 12; following line 12, by inserting:

"(2) Unless the violation is not reasonably ascertainable, complaints alleging violation of subsection (a)(5) shall be commenced within three years from the date of the occurrence of the violation. If the violation is not reasonably ascertainable, complaints alleging violation of subsection (a)(5) shall be commenced within three years from the date of violation is ascertained by the commission."; and the bill be passed as amended.

Also, **SB 440** be amended on page 4, in line 34, by striking "in writing"; in line 35, following the period, by inserting "Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the form has been filed with the commission.";

On page 6, in line 19, by striking "in writing"; in line 20, following the period, by inserting "Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the form has been filed with the commission."; and the bill be passed as amended.

**SB 463** be amended on page 1, in line 21, by striking "bonded"; in line 22, by striking "bonded"; in line 26, by striking "bonded"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 459** be amended on page 1, in line 39 by striking "(c)"; in line 42 by striking all after the existing strike type; by striking all of line 43;

On page 2, by striking all of lines 1 and 2; in line 15, by striking all after "sells"; in line 16 by striking "tributes"; in line 19 by striking all after "provider"; in line 20 by striking all before "listed"; in line 24, before the comma, by inserting "and on an annual basis thereafter"; in line 26, after "providers" by inserting "in the state of Kansas"; in line 28 by striking all after "sells"; in line 29 by striking all before "any"; after line 41 by inserting the following:

*“(d) Any person alleging a violation of this act may bring a private action to seek relief pursuant to K.S.A. 50-634, 50-636 and this act, and amendments thereto, and such person shall be considered a consumer pursuant to K.S.A. 50-624, and amendments thereto, for the purposes of such private action.”; and the bill be passed as amended.*

Committee on **Judiciary** recommends **SB 382** be amended on page 1, in line 26, by striking “25%” and inserting “50%”; in line 31, by striking “25%” and inserting “50%”; in line 41, by striking “or” and inserting a comma; in line 42, after “governor” by inserting “or any local official authorized to declare a state of local disaster emergency pursuant to K.S.A. 48-932, and amendments thereto,”;

On page 2, in line 6, by striking “or” and inserting a comma; also in line 6, after “governor” by inserting “or any local official authorized to declare a state of local disaster emergency pursuant to K.S.A. 48-932, and amendments thereto”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 499** be amended on page 1, in line 12, by striking all after “shall”; in line 13, by striking all before “in” and inserting “charge a technology communication fee, established by rules and regulations but not exceeding \$5,”; and the bill be passed as amended.

Also, **SB 509** be amended on page 2, in line 35, by striking the comma preceding “medical” and inserting “and”; in line 36, by striking “long term care workers”; in line 37, by striking “other health care professionals” and inserting “registered nurse, physical therapist and occupational therapist positions”; in line 39, before the semicolon, by inserting “except that, nothing in this section shall affect the classified status of any employee who is employed on the date immediately preceding the effective date of this act and the unclassified service status prescribed by this subsection shall apply only to any such positions on and after the effective date of this act”; and the bill be passed as amended.

#### **REPORT ON ENROLLED BILLS**

SR 1813, SR 1814, SR 1815, SR 1816 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 19, 2002.

#### **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 Brungardt in the chair.

On motion of Senator Brungardt the following report was adopted:

Recommended **SB 400, SB 405, SB 412, SB 434, SB 443** be passed.

**SB 372, SB 375, SB 391, SB 402, SB 407, SB 468, SB 470, SB 506; HB 2603** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 416** be amended by motion of Senator Barone on page 1, in line 18, by striking “pur-”; in line 19, by striking “pose” and inserting “purposes”; in line 23, after “influence” by inserting “, or establishing and maintaining drivers’ safety programs”, and **SB 416** be passed as amended.

**SB 374** be amended by adoption of the committee amendments, be further amended by motion of Senator Morris, as amended by Senate Committee, on page 5, in line 33, by striking “6%” and inserting “8%”, and **SB 374** be passed as further amended.

**SB 437** be amended by adoption of the committee amendments, be further amended by motion of Senator Jackson, as amended by Senate Committee, on page 3, by striking all in lines 14 and 15;

On page 4, in line 29, after “pests” by inserting “that may cause economic or environmental harm”;

On page 9, by striking all in lines 37 through 39;

And by renumbering sections accordingly, and **SB 437** be passed as further amended.

**SB 550** be amended by adoption of the committee amendments, be further amended by motion of Senator Steineger, as amended by Senate Committee, on page 1, following line 12, by inserting the following:

“Section 1. K.S.A. 12-1226 is hereby amended to read as follows: 12-1226. (a) Except as provided by ~~subsection (b)~~ this section, the treasurer of the library board shall give bond, in an amount fixed by the board and approved by the governing body of the municipality,

for the safekeeping and due disbursement of all funds that may come into the treasurer's hands. The bonds shall be filed with the clerk of the municipality. Except where otherwise provided by law, the treasurer of the municipality shall pay over to the treasurer of the library board all funds collected for the maintenance of the library, and the treasurer of the library board shall pay out the funds on orders of the board signed by the secretary and chairperson thereof. Such treasurer shall keep an accurate record of all moneys received and disbursed thereby and make a report thereof to the library board monthly, or as often as the board requires.

(b) In Johnson county, the treasurer of the library board shall give bond, in an amount fixed by the library board and approved by the board of county commissioners for the safekeeping and due disbursement of all funds that may come into the treasurer's hands. The bond shall be filed with the county clerk. Except where otherwise provided by law, the treasurer of the library board shall pay over to the county treasurer all funds collected for the maintenance of the library, with the exception of gifts and nongovernmental grants. The treasurer of the library board shall keep an accurate record of all moneys received along with its source and those moneys disbursed to the county treasurer. The funds of such library board in the hands of the county treasurer shall be maintained in a separate library fund and any interest payable thereon shall be added to that fund. The administration of such fund shall be with the county treasurer who shall pay out moneys from the fund upon orders signed by the chairperson of the board of county commissioners and the county clerk or their designees.

(c) *In Wyandotte county, the director of revenue of the unified government shall not pay over to the treasurer of the library board moneys collected for the maintenance of the library. The director of revenue shall maintain such moneys in a separate library fund. Any interest attributable to library moneys shall be deposited in the library fund. All moneys from gift, grants, donations or bequests to the library also shall be deposited in the library fund. The director of revenue shall administer the library fund and shall pay out moneys from the library fund, upon approval of the library board, and on orders signed by the chairperson and the treasurer of the library board or other authorized officers of the library board.*;

Also on page 1, in line 13, by striking "Section 1." and inserting "New Sec. 2."; by renumbering sections 2 through 9 as new sections 3 through 10;

On page 6, following line 23, by inserting:

"Sec. 11. K.S.A. 12-1226 is hereby repealed.";

By renumbering section 10 as section 12;

In the title, by striking all in line 10 and inserting:

"AN ACT concerning certain libraries; relating to the powers, duties and functions thereof; amending K.S.A. 12-1226 and repealing the existing section.", and **SB 550** be passed as further amended.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Wednesday, February 20, 2002.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

