

Journal of the Senate

FORTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 12, 2002—2:30 p.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,

While we agonize on whether or not to raise taxes, and if so how much, and on what;
this might be a good time to reflect on some of the things on which there is no tax at all:

There's no tax on scenery,
No tax on a smile;
No tax on a compliment
Once in a while.

No tax on laughter,
No tax on friends;
No tax on "Good Morning"
When the day begins.

No tax on worship,
No tax on prayer;
No tax on telling
Someone you care.

No tax on faith,
No tax on love;
No tax on hope
All gifts from above.

So many blessings
We cannot see,
You make available—
Tax free!!

I thank You in the Name of Christ,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Elections and Local Government: **HB 2337**.

Judiciary: **Sub HB 2469; HB 2751, HB 2802; Sub HB 2979**.

Ways and Means: **Sub HB 2057; HB 2690, HB 2763, HB 2810**.

CHANGE OF REFERENCE

The President withdrew **SB 625** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Federal and State Affairs.

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF REVENUE

Stephen S. Richards, Secretary, Department of Revenue, submitted the Annual Statistical Report for Fiscal Year ending June 30, 2001.

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.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2377**; **Substitute HB 2487**; **HB 2996**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2377; **Substitute HB 2487**; **HB 2996** were thereupon introduced and read by title.

FINAL ACTION ON CONSENT CALENDAR

HB 2622, **HB 2656** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

HB 2622, An act concerning retirement; relating to local police and fire pension plans; contribution rates; amending K.S.A. 12-5002 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: 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 bill passed.

HB 2656, An act relating to motor vehicles; concerning Pearl Harbor license plate; amending K.S.A. 8-1,147 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: 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 bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Sub SB 339, An act concerning crimes, criminal procedure and punishment; relating to persons in the custody of the secretary of corrections; early release of the functionally incapacitated, 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.

SB 403, An act relating to savings account programs; concerning the postsecondary education savings program; establishing the family development account program; amending K.S.A. 2001 Supp. 60-2308 and 75-646 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: 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 bill passed, as amended.

SB 559, An act concerning drivers licenses and other identification cards; relating to application requirements; photograph fees; amending K.S.A. 8-240, 8-243 and 8-1324 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 25, Nays 15, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Donovan, Downey, Emler, Feleciano, Gilstrap, Goodwin, Hensley, Jordan, Kerr, Lee, Morris, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil.

Nays: Brownlee, Clark, Corbin, Gooch, Haley, Harrington, Huelskamp, Jackson, Jenkins, Lyon, O'Connor, Pugh, Taddiken, Tyson, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

SB 559 is about discouraging identity theft by making it more difficult to obtain fraudulent driver's licenses and i.d. cards in Kansas. Today, under current law, Kansas is one of the easiest states in the nation in which to obtain false identification, and to steal someone's identity. There are no security measures in place to protect Kansans, to ensure that an applicant for a driver's license or a nondriver's i.d. card is who he or she says he or she is. A simple photograph yields an instant, permanent piece of government issued identification.

In Johnson County alone, identity theft causes over \$1 million in annual losses to retailers, credit card companies, and banks. These losses are passed on to the consumer in the form of higher prices. The Johnson County District Attorney's office reports cases of identity theft more than doubling every year. Identity theft cases in Overland Park have increased 100% in each of the last two years. Driver's licenses are much more than a license to drive—they allow us to open bank accounts, write merchants checks, and step onto airplanes.

SB 559 is not about invading Kansans' privacy, it's about preserving Kansans' privacy and protecting Kansans' security. I vote yes.—BARBARA ALLEN

Senators Adkins, Barone, Feleciano, Goodwin, Lee and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Allen on **SB 559**.

MR. PRESIDENT: I vote "NO" on **SB 559**.

Identity ("I.D.") theft is horrible; it devastates innocent records and innocent lives. Last year, this legislature made ID theft a felony.

It should be.

But this bill places innocent people under suspicion and places personal information in an unnecessary government repository.

Why driver's licenses? Why the most necessary of public licences regulated by our state to address ID theft? If the bill passes, *every* citizen, in order to operate a vehicle as a Kansan, will have to submit their name; their social security number; their height; their weight; their date of birth; their address; their thumbprint and, perhaps soon, an optical scan. What next?

Their DNA or a hair sample? Oh (Big) Brother!!

MR. PRESIDENT this bill goes way too far in addressing a legitimate concern; that being the verification of one's true identity. This bill criminalizes the vast majority of innocent Kansans basic privilege to drive.

If you are proud to vote for this, Mr. President, when you go home then *tell* the folks you voted for these additional requirements for them to get a driver's license.

Better yet, don't wait. Put it in your newsletter and see if your constituents agree that these new measures are either necessary or appropriate.

Oh, Brave New World I know that the House, being responsible to the will of all of our constituents, and concerned about the erosion by government of innocent citizen's privacy, will effect the appropriate response and reject the tenets of **SB 559**.—DAVID HALEY

Senators Harrington, Jackson, O'Connor and Tyson request the record to show they concur with the "Explanation of Vote" offered by Senator Haley on **SB 559**.

MR. PRESIDENT: **SB 559** is another thinly-veiled attempt to establish a national identification card and registry. While I support strong security, there is no justification for Kansas to participate in a national database of fingerprints or retinal scans. It has a potential untold expense in terms of money and our freedoms.—TIM HUELSKAMP

SB 629, An act concerning the adjutant general and the division of emergency management; relating to the powers and duties thereof; amending K.S.A. 48-928 and K.S.A. 2001 Supp. 48-904 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: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 637, An act making and concerning appropriations for the fiscal year ending June 30, 2002, for the judicial branch; authorizing certain transfers and imposing certain restrictions and limitations, 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, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **SB 637**.

It is rare that we face an issue in the Kansas Senate which is as clear as this one. Without the additional appropriation of \$600,000 this fiscal year, our judicial system will shut down for three or even four days.

That is completely unacceptable. While I am aware that a spending bill such as this one is often a target for lengthy debate and any number of amendments, this issue is too important for political games. That is why Senate Democrats assured Chief Justice Kay McFarland that we would expedite this bill and make no attempt to tie it to other issues.

This caucus, and now this chamber, remains committed in this fiscal year to the third branch of Kansas government. The Judiciary is an equal partner of the Governor and the Legislature, and should be funded as such.

I encourage the Kansas House of Representatives to pass this bill in the same manner the Senate has—without amendments and without delay.—ANTHONY HENSLEY

Senators Adkins, Feleciano and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **SB 637**.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 581** be amended on page 2, in line 6 by striking all after "session"; by striking all in line 7; in line 8, by striking all before the period; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2695** be passed.

Also, **HB 2694** 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 **Judiciary** recommends **HB 2611**, **HB 2629**, **HB 2698** as amended by House Committee; **HB 2769** be passed.

Also, **HB 2623** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

(e)";

Also on page 21, in line 33, after the comma, by inserting "if living."; in line 34, before "beneficiary" by inserting "qualified"; in line 37, by striking "serious"; in line 42, after "beneficiaries" by inserting "and is consistent with the terms of the trust"; in line 43, by striking "or removal";

On page 22, in line 1, by striking "is requested by all of the qualified beneficiaries," and inserting "and"; in line 3, by striking "and" the first time it appears and by inserting "is consistent with the terms of the trust."; in line 7, by striking "78" and inserting "76";

On page 23, in line 7, after "trust" by inserting "consistent with the terms of the trust and"; in line 9, by striking "89" and inserting "87"; in line 18, by striking "82" and inserting "80"; in line 20, by striking "86" and inserting "84";

On page 24, in line 9, by striking "72" and inserting "70"; in line 11, by striking "and" and inserting " formula or"; in line 14, after "beneficiaries" by inserting "and consistent with the terms of the trust";

On page 26, after line 15, by inserting the following:

"(e) Any estate in real property may be acquired in the trust name. Title acquired in the trust name may be conveyed only in the trust name.";

Also on page 26, in line 27, before "beneficiary's" by inserting "qualified"; in line 30, before "beneficiary" and before "ben-" by inserting "qualified";

On page 27, in line 2, by striking "or nonqualified"; in line 4, by striking "its rate of return."; in line 7, after "values" by inserting " and if requested, the trust's association of investment management and research compliant rate of return"; in line 12, before "beneficiary" by inserting "qualified"; in line 13, before "ben-" by inserting "qualified"; after line 15, by inserting the following:

"(e) The provisions of this section are inapplicable as to notice to persons other than a surviving spouse so long as a surviving spouse is or may be entitled to receive income or principal distributions from a trust, or holds any power of appointment therein, and where any or all qualified beneficiaries are the issue of the surviving spouse.";

Also on page 27, in line 16, by striking " ; TAX SAV-"; in line 17, by striking "INGS"; in line 34, by striking "74" and inserting "72";

On page 30, in line 27, before "beneficiaries" by inserting "qualified"; in line 28, before "beneficiary" and before "ben-" by inserting "qualified"; in line 30, before "beneficiary" by inserting "qualified";

On page 31, in line 18, by striking "56" and inserting "54"; in line 21, by striking "89" and inserting "87";

On page 32, in line 18, by striking "two years" and inserting "one year"; in line 29, by striking "five" and inserting "two";

On page 33, in line 15, by striking " , while having capacity,";

On page 34, in line 36, before "beneficiary" by inserting "qualified"; also in line 36, by striking "a" and inserting "an acknowledged";

On page 36, in line 35, by striking "2000" and inserting "2001"; also in line 35, after "58-1204" by inserting " , 58-12a01, 58-12a02, 58-12a03, 58-12a04, 58-12a05 and 58-12a06";

On page 1, in the title, in line 13, by striking "2000" and inserting "2001"; also in line 13 after "58-1204" by inserting " , 58-12a01, 58-12a02, 58-12a03, 58-12a04, 58-12a05 and 58-12a06"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2693**, as amended by House Committee, be passed.

Committee on **Ways and Means** recommends **SB 421** be amended on page 1, in line 16, after "services" by inserting "shall take into consideration the parents' income and ability to pay."; in line 17, by striking "and directly related to the costs of such service"; in line 19, after the period, by inserting: "No fees shall be charged under this section to parents whose household income is equal to or less than 200% of the federal poverty level established under the most recent poverty guidelines issued by the federal department of health and human services."; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 403, SB 559, SB 629, SB 637 reported correctly engrossed March 12, 2002.

REPORT ON ENROLLED BILLS

SR 1821, SR 1822 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 12, 2002.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Wednesday, March 13, 2002.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

