

Journal of the Senate

FORTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 15, 2002—9:30 a.m.

The Senate was called to order by President Dave Kerr.

The roll was called with twenty-eight senators present.

Senators Allen, Barnett, Brungardt, Clark, Donovan, Gilstrap, Harrington, Morris, Pugh, Schodorf, Steineger and Umbarger were excused.

President Kerr introduced as guest chaplain, Rev. Michael Tomson-DeGreeff, Pastor, Pleasant Hill United Methodist Church, Topeka, who delivered the invocation:

Lord of Law, Lord of Love, Lord of Life,

Thank you for giving us the gift of life in freedom and in love.

Thank you for giving us Your law

by which we mold our lives and our community.

We do not always live up to Your expectations.

We sometimes fail to follow Your law.

We succumb to the temptation of

power, prestige and possessions.

We often lack the strength and courage

to do Your will over our own.

Lord, we pray that You will lift us up

out of the dark valley of hatred, greed, pride and fear

And place us on the rock of Your truth.

Illumine our hearts with Your love.

Restore us to a right relationship with You and our neighbors.

And having been liberated by Your law, and Your love, and Your life,

May we learn to lead lives worthy of children of God.

In Christ's name we pray, AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1623—

By Committee on Financial Institutions and Insurance

A CONCURRENT RESOLUTION requesting the Kansas commissioner of insurance to study the use of insurance scoring reports within the insurance industry and the need for additional regulation, if any.

WHEREAS, Insurance is an essential economic tool to protect the assets of Kansas residents and property owners; and

WHEREAS, Insurance companies are now using insurance scores in the underwriting of all types of personal and commercial insurance; and

WHEREAS, There is extensive evidence that a person's credit is an accurate predictor of their future loss probability; and

WHEREAS, Insurance consumers deserve to know and understand the impact their credit and insurance score has on the availability and affordability of their coverage; and

WHEREAS, Insurance consumers need to know that an insurance score will be used and to understand how they can positively impact their insurance score; and

WHEREAS, The public policy of the State of Kansas may dictate that certain limitations need to be placed on the use of insurance scoring such as prohibiting use of scores on an individual's or business' insurance renewal, prohibiting use of scores as the sole factor considered or prohibiting use of scores that are in a legitimate dispute; and

WHEREAS, The Kansas Insurance Department may need the authority to require the filing of credit or insurance scoring models with protection from public disclosure of proprietary information to allow the department to monitor their proper application: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That a task force be formed consisting of 11 members to include the chair of the senate committee on financial institutions and insurance; the chair of the house committee on insurance; the ranking minority member of the senate committee on financial institutions and insurance; the ranking minority member of the house committee on insurance; the insurance commissioner or the commissioner's designee; two persons, one representing a domestic property and casualty insurance company and one representing a foreign property and casualty insurance company appointed by the insurance commissioner from a list submitted by the Kansas Association of Property and Casualty Insurance Companies; two members representing the licensed Kansas insurance agents appointed by the insurance commissioner from a list submitted by the Kansas Association of Insurance Agents; and two members appointed by the governor representing the consumer interests. The governor shall appoint the chairperson and vice chairperson from the membership of the committee. The chairperson and vice chairperson shall not be of the same political party. Legislative members serving on the task force shall receive pay and allowances as provided for legislative service. All other task force members shall not receive any compensation, subsistence, mileage or other allowances for serving on the task force or attending any meeting thereof. The task force shall conduct a study of the desirability of regulation of insurance scoring practices for the benefit of Kansas consumers; and

Be it further resolved: That a report containing the results of such study and the task force's recommendations and conclusions emanating therefrom be transmitted to the speaker of the house of representatives, the president of the senate, the chair of the house committee on insurance, and the chair of the senate committee on financial institutions and insurance no later than the convening of the 2003 Kansas legislature; and

Be it further resolved: That the secretary of state transmit an enrolled copy of this resolution to the commissioner of insurance.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Education: **SB 647.**

MESSAGE FROM THE GOVERNOR

March 8, 2002

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Directive No. 02-320 for your information.

Sincerely,

BILL GRAVES
Governor

The President announced Executive Directive No. 02-320, Authorizing a Personnel Transaction, is on file in the office of the Secretary of the Senate and available for review at any time.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1824—

A RESOLUTION congratulating and commending the Kansas Section of the American Society of Civil Engineers.

WHEREAS, The American Society of Civil Engineers is celebrating the 150th anniversary of its founding on November 5, 1852; and

WHEREAS, The Kansas Section of the American Society of Civil Engineers was founded in 1920; and

WHEREAS, The State of Kansas is home to over 1,000 members of the civil engineering community practicing in government, education, consulting and research; and

WHEREAS, The professional efforts of Kansas Section members have been instrumental in designing, maintaining and operating the infrastructure that keeps the economy of Kansas growing; and

WHEREAS, The Kansas Section works closely with the American Society of Civil Engineer's national leadership to promote and improve this state's and nation's infrastructure, and to educate the public as to how civil engineering impacts daily life; and

WHEREAS, The Kansas Section supports future civil engineering students through educational and mentoring programs from our grade schools through our institutes of higher learning, and promotes continuing and advancing education of its membership: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the American Society of Civil Engineers upon its 150th anniversary and recognize the fine work of the civil engineers of the Kansas Section in constructing and maintaining the infrastructure of our state; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to S. Earl Tast, President, Kansas Section of ASCE, 1263 S.W. Topeka Blvd., Topeka, Kansas 66612.

On emergency motion of Senator Lyon **SR 1824** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Elections and Local Government** recommends **HB 2761**, as amended by House Committee, be passed.

Also, **HB 2727** be amended on page 5, following line 4, by inserting new material to read as follows:

“Sec. 2. K.S.A. 15-123 is hereby amended to read as follows: 15-123. After the hearing has been adjourned *sine die*, the board or joint board of county commissioners shall consider the matter. It may request the director of the division of community development of the department of economic development to make a study of the general area in which the territory is located, information in possession of the county board and other sources, and render an opinion as to the advisability of the proposed incorporation. The petition for incorporation shall be denied if it is determined that present or future annexation to an adjacent city, or the creation of an authorized special service district, or districts, would better serve the interest of the area or that the proposed incorporation would be otherwise contrary to the public interest. If the board or joint board determines that the territory should not be incorporated, it shall make an order so stating. ~~In addition to other requirements, if any of the territory wholly within one county is within five miles of an existing city, the territory shall not be incorporated except by the unanimous vote of the commissioners.~~ If the board or joint board determines that the territory should be incorporated, it shall prepare an order or joint order incorporating the territory as a city by the name of “the city of _____” as stated in the petition and describing the metes and bounds thereof. When the order has been adopted, the inhabitants within such bounds and such further territory as from time to time may be lawfully added thereto shall be a body politic and corporate by that name, and they and their successors (except such corporation be lawfully dissolved) shall have perpetual succession. The order shall be

adopted at the next regular meeting of the board. Where two counties are involved, the board of each county shall adopt the joint order at its next regular meeting and not less than two commissioners of each county shall vote in favor thereof; ~~except that in addition to other requirements, if any of the territory is within five miles of an existing city, the territory shall not be incorporated except by the unanimous vote of the commissioners of each county involved.~~ The order or joint order so incorporating the city shall order the first election in the city for city officers. The order or joint order shall be entered at length upon the journal of the proceedings of the board or boards of county commissioners and shall be published once in some newspaper printed or in general circulation in the city at least one week before the city election. Nomination papers for candidates for city office shall be filed with the county election officer of the county where the petition for incorporation was filed and the county election officer shall conduct such election.

Sec. 3. K.S.A. 2001 Supp. 19-4004 is hereby amended to read as follows: 19-4004. In all counties wherein the board or boards of county commissioners in the event of a combination of counties has established a governing board, the respective board or boards of county commissioners may levy an annual tax upon all taxable tangible property in such county for mental health services and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. The respective board or boards of county commissioners may also levy an additional annual tax upon all taxable tangible property in such county for mental retardation services and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. The additional levy authorized by this section for mental retardation services shall not be made until a notice of intent to make such levy has been published in a newspaper of general circulation in the county or counties involved by the board or boards of county commissioners proposing to make such levy, and such notice shall state that if a petition signed by 5% of the electors of the county shall file a protest petition within 60 days of the date of such publication a proposition will be submitted at an election called for the purpose in the county for approval of the levy; if such proposition is approved or if no sufficient protest is made, then the board or boards of county commissioners shall levy such tax, but if a sufficient protest is made and such proposition is not approved, the levy will not be made. The proceeds thereof shall be placed in the hands of the appropriate governing board to be administered as provided by this act.

In addition thereto, to provide for the purchase of or the construction of facilities for the community mental health center, and/or facility for the mentally retarded, the board or boards of county commissioners may, upon petition of the governing board, levy an annual tax on all taxable tangible property in their county and to issue and sell general obligation bonds of such county, for the purpose of creating and providing a special fund to be used in acquiring a site for, and the building, equipping, repairing, remodeling and furnishing of a community mental health center, and/or facilities for the mentally retarded, or for any one or more of such purposes. The additional levy authorized by this section shall not be made until a notice of intent to make such levy has been published in a newspaper of general circulation in the county or counties involved by the board or boards of county commissioners proposing to make such levy, and such notice shall state that if a petition signed by 5% of the electors of the county shall file a protest petition within 60 days of the date of such publication a proposition will be submitted at an election called for the purpose in the county for approval of the levy; if such proposition is approved or if no sufficient protest is made, then the board of county commissioners will make the levy of such tax, but if a sufficient protest is made and such proposition is not approved, the levy will not be made. The board of county commissioners shall proceed in the manner prescribed to be followed in such notice. The tax levy may be made annually until sufficient funds have been created for the purpose or purposes, or if the county has issued and sold general obligation bonds, the proceeds raised by the annual tax levy shall be used to retire the general obligation bonds and the tax levy shall continue until the general obligation bonds have been retired. Such federal, state or private funds as may be available may be accepted by the board of county commissioners to be placed in the fund for operation of or construction of a community mental health center, and/or facility for the mentally retarded, as the case may

be. Title to the building or buildings of the community mental health center, and/or facility for the mentally retarded, shall vest in the governing board which is responsible for the maintenance and operation of the facilities if a combination of counties has established the center, but, if only one county has established the mental health center or facilities for the mentally retarded, title shall vest in the board of county commissioners of such county. If the board of county commissioners has contracted with a nonprofit corporation to provide mental health services under K.S.A. 19-4007, and amendments thereto, the title to the building or buildings ~~shall~~ *may, in the discretion of the board of county commissioners,* vest in the board of county commissioners ~~and they~~ *or the nonprofit corporation providing mental health services,* and the board of county commissioners may allow the nonprofit corporation to use the buildings without charge.”;

By renumbering the sections accordingly;

Also on page 5, in line 5, following “K.S.A.”, by inserting “15-123 and K.S.A.”; also in line 5, by striking “is” and inserting “and 19-4004 are”;

On page 1, in the title, in line 9, by striking “improvement districts” and inserting “certain local units of government”; in line 10, following “K.S.A.”, by inserting “15-123 and K.S.A.”; in line 11, following “2765”, by inserting “and 19-4004”; also in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2807** be passed.

REPORT ON ENGROSSED BILLS

SB 483, SB 521, SB 541, SB 557 reported correctly engrossed March 14, 2002.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Monday, March 18, 2002.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

