

Journal of the Senate

FORTY-FIFTH DAY

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

The Senate was called to order by President Dave Kerr.

The roll was called with forty senators present.

President Kerr introduced as guest chaplain, Rev. Jean Wilson, Pastor of Asbury Mount Olive United Methodist Church, Topeka, who delivered the invocation:

Most Holy and Everlasting God, thank you for Your goodness, Your tender mercies and Your loving kindness. This afternoon, oh merciful God, I lift up the Kansas State Senate before your throne of Grace. God, You said in Your Word that You reprove leaders for our sakes so that we may live a quiet and peaceable life in all godliness and honesty.

I pray this afternoon that skillful and godly wisdom has entered into the heart of these Kansas Senate leaders and that knowledge is pleasant to them; that discretion watches over them and understanding keeps them and delivers them from the way of evil.

God, I confess and believe that the decisions made by the leaders of this Senate are divinely directed by You. I pray that these men and women, by the power of the Holy Spirit will discern, understand, and know what the will of God is for this state and country and act accordingly.

In the name of the one who died that we might all live forever. Amen

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 649, An act concerning tax increment financing; relating to major tourism areas; amending K.S.A. 12-1770a, 12-1771b and 12-1775 and repealing the existing sections, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **Sub HB 2754**.

Financial Institutions & Insurance: **HB 2879**.

Judiciary: **SB 648**; **HB 2823**.

Public Health and Welfare: **HB 2372**, **HB 2681**, **HB 2808**.

Reapportionment: **Sub HB 3012**.

Transportation: **HB 2799**.

Ways and Means: **HB 2612**, **HB 2613**.

CHANGE OF REFERENCE

The President withdrew **SB 634** from the Committee on Judiciary, and referred the bill to the Committee on Federal and State Affairs.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2666**, **HB 2764**, **HB 2949**.

Passage of **SB 398**.

Also, passage of **SB 95**, as amended, **SB 444**, as amended, **SB 445**, as amended, **SB 470** as amended, **SB 502**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2666, **HB 2764**, **HB 2949** were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2660**, **HB 2818**, as amended by House Committee, be passed.

Also **HB 2817** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HCR 5014 be amended on page 1, in line 43, by striking "President" and inserting "Majority Leader"; and the concurrent resolution be adopted as amended.

Committee on **Elections and Local Government** recommends **HB 2708**, **HB 2747**, be passed.

Committee on **Financial Institutions and Insurance** recommends **HB 2813** be passed.

Also **HB 2812**, as amended by House Committee, be amended on page 1, in line 25, by striking "Upon receiving prior approval from" and inserting "In accordance with rules and regulations adopted by"; and the bill be passed as amended.

Committee on **Judiciary** recommends **Substitute for HB 2673** be passed.

Also **HB 2075** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL No. 2075," as follows:

"Senate Substitute for HOUSE BILL No. 2075
By Committee on Judiciary

"AN ACT concerning controlled substances; relating to methamphetamine and other substances; prohibited acts and penalties therefor; enforcement grants; forfeiture proceeds; Kansas criminal justice council, duties; amending K.S.A. 2001 Supp. 21-3718, 60-4117, 65-4101, 65-4152, 65-7006 and 74-9501 and repealing the existing sections."; and the substitute bill be passed.

HB 2078, as amended by House Committee of the Whole, be amended on page 1, by striking all in line 33; in line 34, by striking all before the period;

On page 2, in line 1, before "shoplifting" by inserting "the offense of theft which would constitute"; in line 4, before "shoplifting" by inserting "the offense of theft which would constitute"; and the bill be passed as amended.

HB 2697 be amended on page 1, in line 30, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2624**, as amended by House Committee, and as reprinted, be amended on page 4, following line 19, by inserting the following:

"Sec. 3. K.S.A. 2001 Supp. 82a-1030 is hereby amended to read as follows: 82a-1030.

(a) In order to finance the operations of the district, the board may assess an annual water user charge against every person who withdraws groundwater from within the boundaries of the district. The board shall base such charge upon the amount of groundwater allocated for such person's use pursuant to such person's water right. Such charge shall not exceed ~~\$.60~~ \$1 for each acre-foot (325,851 gallons) of groundwater withdrawn within the district or allocated by the water right, except that the annual user charge for the fiscal year of the district beginning on or after July 1, 2001, and before July 1, 2002, may be in an amount not exceeding \$.65. Whenever a person shows by the submission to the board of a verified claim and any supportive data which may be required by the board that such person's actual annual groundwater withdrawal is in a lesser amount than that allocated by the water right of such person, the board shall assess such annual charge against such person on the amount of water shown to be withdrawn by the verified claim. Any such claim shall be submitted by April 1 of the year in which such annual charge is to be assessed. The board may also make an annual assessment against each landowner of not to exceed \$.05 for each acre of land owned within the boundaries of the district. Special assessments may also be levied, as provided hereafter, against land specially benefited by a capital improvement without regard to the limits prescribed above.

(b) Before any assessment is made, or user charge imposed, the board shall submit the proposed budget for the ensuing year to the eligible voters of the district at a hearing called for that purpose by one publication in a newspaper or newspapers of general circulation within the district at least 28 days prior to the meeting. Following the hearing, the board shall, by resolution, adopt either the proposed budget or a modified budget and determine the amount of land assessment or user charge, or both, needed to support such budget.

(c) Both the user charges assessed for groundwater withdrawn and the assessments against lands within the district shall be certified to the proper county clerks and collected the same as other taxes in accordance with K.S.A. 79-1801, and acts amendatory thereof or supplemental thereto, and the amount thereof shall attach to the real property involved as a lien in accordance with K.S.A. 79-1804, and acts amendatory thereof or supplemental thereto. All moneys so collected shall be remitted by the county treasurer to the treasurer of the groundwater management district who shall deposit them to the credit of the general fund of the district. The accounts of each groundwater management district shall be audited annually by a public accountant or certified public accountant.

(d) Subsequent to the certification of approval of the organization of a district by the secretary of state and the election of a board of directors for such district, such board shall be authorized to issue no-fund warrants in amounts sufficient to meet the operating expenses of the district until money therefor becomes available pursuant to user charges or assessments under subsection (a). In no case shall the amount of any such issuance be in excess of 20% of the total amount of money receivable from assessments which could be levied in any one year as provided in subsection (a). No such warrants shall be issued until a resolution authorizing the same shall have been adopted by the board and published once in a newspaper having a general circulation in each county within the boundaries of the district. Whereupon such warrants may be issued unless a petition in opposition to the same, signed by not less than 10% of the eligible voters of such district and in no case by less than 20 of the eligible voters of such district, is filed with the county clerk of each of the counties in such district within 10 days following such publication. In the event such a petition is filed, it shall be the duty of the board of such district to submit the question to the eligible voters at an election called for such purpose. Such election shall be noticed and conducted as provided by K.S.A. 82a-1031, and amendments thereto.

Whenever no-fund warrants are issued under the authority of this subsection, the board of directors of such district shall make an assessment each year for three years in approximately equal installments for the purpose of paying such warrants and the interest thereon. All such assessments shall be in addition to all other assessments authorized or limited by law. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by said statute and may be issued without the approval of the state board of tax appeals. Any surplus existing after the redemption of such warrants shall be handled in the manner prescribed by K.S.A. 79-2940, and amendments thereto.”;

And by renumbering the sections accordingly;

Also on page 4, in line 20, following “19-3552”, by inserting “and 82a-1030”;

On page 1, in the title, in line 10, following “Act”, by inserting “concerning water; concerning groundwater management districts;”; in line 12, following “19-3552”, by inserting “and 82a-1030”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2621** be amended by substituting a new bill to be designated as “Senate Substitute for HOUSE BILL No. 2621,” as follows:

“SENATE Substitute for HOUSE BILL No. 2621

By Committee on Ways and Means

“AN ACT concerning retirement; relating to the Kansas public employees retirement system and systems thereunder; benefits; eligibility; purchase of participating service; roll-over of distributions; retirement plans and accounts, contributions; amending K.S.A. 72-8603 and 75-5524 and K.S.A. 2001 Supp. 74-4902, 74-4919m, 74-4966 and 74-49,123 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 74-4919t.”;

and the substitute bill 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 Jordan in the chair.

On motion of Senator Jordan the following report was adopted:

Recommended **SB 520, HB 2611, HB 2623, HB 2629, HB 2695, HB 2807** be passed. **SB 297, SB 421, SB 517, SB 642, HB 2630** be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 471, as amended by motion of Senator Allen in Committee of the Whole on February 27, 2002, be further amended by adoption of the committee amendments, and the bill be passed as further amended.

HB 2675 be amended by motion of Senator Vratil, as amended by House Committee, on page 1, following line 14, by inserting:

“New Section 1. (a) On and after January 1, 2003, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Autism Society of Johnson County Kansas license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Autism Society of Johnson County Kansas may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be paid to the Autism Society of Johnson County Kansas and shall be used to provide scholarships. Any motor vehicle owner or lessee annually may apply to the Autism Society of Johnson County Kansas for the use of such logo. Upon annual application and payment to the Autism Society of Johnson County Kansas in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each license plate to be issued, the Autism Society of Johnson County Kansas shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall provide the annual logo use authorization statement provided for in subsection (b). Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides the annual logo use authorization statement provided for in subsection (b). If such logo use authorization statement is not presented at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(f) The Autism Society of Johnson County Kansas shall:

- (1) Pay the initial cost of silk-screening for license plates authorized by this section; and
- (2) provide to all county treasurers a toll-free telephone number where applicants can call the Autism Society of Johnson County Kansas for information concerning the application process or the status of their license plate application.

(g) The Autism Society of Johnson County Kansas, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.”;

Also on page 1, in line 15, by striking “Section 1.” and inserting “Sec. 2.”;

By renumbering the remaining sections accordingly;

In the title, in line 10, by striking "personalized", and **HB 2675** be passed as amended.

HB 2693 be amended by motion of Senator Lee, as amended by House Committee, on page 1, following line 27, by inserting:

"Sec. 1. K.S.A. 8-1723 is hereby amended to read as follows: 8-1723. (a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side which shall emit a white or amber light without glare.

(c) Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(d) Any vehicle 80 inches or more in overall width, if not otherwise required by K.S.A. 8-1710, and amendments thereto, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in subsection (g) of K.S.A. 8-1710, and amendments thereto.

(e) Any vehicle may be equipped with one or more side marker lamps and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber and side marker lamps located toward the rear shall be red.

(f) *Any motor vehicle may be equipped with neon ground effect lighting, except that such lighting shall not be any shade of red. "Neon ground effect lighting" means neon tubes placed underneath the motor vehicle for the purpose of illuminating the ground below the motor vehicle creating a halo light effect.*;

By renumbering sections accordingly;

On page 7, in line 12, by striking "8-2118 is" and inserting "8-1723 and 8-2118 are";

In the title, in line 10, by striking all following "concerning"; in line 11, by striking all preceding the semicolon and inserting "certain equipment"; in line 12, following "K.S.A." by inserting "8-1723 and"; also in line 12, by striking "section" and inserting "sections", and **HB 2693** be passed as amended.

A motion by Senator Haley to amend **HB 2693** failed and the following amendment was rejected:

As amended by House Committee, on page 7, following line 11, by inserting the following:

"Sec. 3. K.S.A. 68-2004 is hereby amended to read as follows: 68-2004. (a) The authority is hereby authorized and empowered to:

- (1) Adopt bylaws for the regulation of its affairs and the conduct of its business;
- (2) adopt an official seal and alter the same ~~at pleasure~~;
- (3) maintain an office at such place or places within the state as it may designate;
- (4) sue and be sued in its own name, plead and be impleaded;
- (5) determine the location, subject to the approval of the secretary of transportation, of each turnpike project financed under the provisions of this act, determine its design and the materials of construction, and construct, maintain, repair and operate the same;
- (6) issue turnpike revenue bonds of the authority for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;
- (7) fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it. *In addition to the tolls charged and collected under this paragraph, the authority is authorized to develop and implement a system of tolls based on the average speed driven by a person using the turnpike project;*
- (8) adopt rules and regulations for the use of any such turnpike project, and adopt rules and regulations for traffic control on such project;
- (9) acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;
- (10) designate the locations, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of

the authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(11) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(12) employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(13) receive and accept from any federal agency grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; and

(14) do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(b) Violation of any of the rules and regulations adopted under this section shall be unlawful and subject to the penalties contained in K.S.A. 8-2116, and amendments thereto.”;

By renumbering sections accordingly;

Also on page 7, in line 12, by striking “is” and inserting “and 68-2004 are”;

In the title, in line 10, by striking all following the semicolon; by striking all in line 11; in line 12, following “8-2118” by inserting “and 68-2004”; also in line 12, by striking “section” and inserting “sections”.

SB 547 be amended by adoption of the committee amendments, be further amended by motion of Senator Emler, as amended by Senate Committee, on page 2, in line 22, following the period, by inserting “If the public utility holding the certificated area is not an existing gas service utility, then the existence of such public utility and its certificate will not in any way limit the rural gas user or the rural gas user’s provider in establishing and maintaining the rural gas service provided for by this act.”;

On page 3, in line 1, by striking “The”; by striking all in lines 2 and 3.

Senator Clark further amended the bill, as amended by Senate Committee, on page 1, in line 13, by striking “5” and inserting “6”;

On page 3, in line 11, by striking “facilities provided for in” and inserting “providers of rural gas service under the provisions of”; in line 12, following “laws” by inserting “including rules and regulations adopted by the state corporation commission pursuant to K.S.A. 66-1,150, and amendments thereto”; following line 14, by inserting the following:

“Sec. 7. K.S.A. 66-1,150 is hereby amended to read as follows: 66-1,150. (a) The state corporation commission is hereby authorized to adopt such rules and regulations as may be necessary to be in conformance with the natural gas pipeline safety act of 1968 (49 U.S.C.A. 1671 *et seq.*), as amended. Notwithstanding the exemption provisions of K.S.A. 66-104 and 66-131, and amendments thereto, and related statutes, for the purpose of gas pipeline safety such rules and regulations shall be applicable to: (1) All public utilities and all municipal corporations or quasi-municipal corporations transporting natural gas or rendering gas utility service; (2) all operators of master meter systems, as defined by 49 C.F.R. 191.3; ~~and~~ (3) all operators of privately or publicly owned pipelines providing natural gas service or transportation directly to the ultimate consumer for the purpose of manufacturing goods or generating power; and (4) providers of rural gas service under the provisions of sections 1 through 6, and amendments thereto.

(b) As used in subsection (a)(3), “manufacturing goods” does not include farming or activities associated with production of oil or gas.

(c) Nothing in this section shall be construed as invalidating any present rules or regulations of the state corporation commission, concerning the regulation of pipelines and pipeline companies.

Sec. 8. K.S.A. 66-1,150 is hereby repealed.”;

By renumbering section 7 as section 9;

In the title, in line 10, following “act” by inserting “; amending K.S.A. 66-1,150 and repealing the existing section”, and **SB 547** be passed as further amended.

A motion by Senator Clark to further amend **SB 547** failed and the following amendment was rejected:

As amended by Senate Committee, on page 3, following line 14, by inserting the following:

“Sec. 7. K.S.A. 2001 Supp. 79-201j is hereby amended to read as follows: 79-201j. The following described property, to the extent specified by this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All farm machinery and equipment. The term “farm machinery and equipment” means that personal property actually and regularly used in any farming or ranching operation. The term “farm machinery and equipment” shall include: ~~(1) Machinery and equipment comprising a natural gas distribution system which is owned and operated by a non-profit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use, and (2) any greenhouse which is not permanently affixed to real estate and which is used for a farming or ranching operation.~~ The term “farming or ranching operation” shall include the operation of a feedlot, the performing of farm or ranch work for hire and the planting, cultivating and harvesting of nursery or greenhouse products, or both, for sale or resale. The term “farm machinery and equipment” shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as the terms are defined by K.S.A. 8-126 and amendments thereto.

The provisions of this subsection shall apply to all taxable years commencing after December 31, ~~1999~~ 2002.

(b) (1) All aquaculture machinery and equipment. The term “aquaculture machinery and equipment” means that personal property actually and regularly used in any aquaculture operation. The term “aquaculture operation” shall include the feeding out of aquatic plants and animals; breeding, growing or rearing aquatic plants and animals; and selling or transporting aquatic plants and animals. The term “aquaculture machinery and equipment” shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

(2) All Christmas tree machinery and equipment. The term “Christmas tree machinery and equipment” means that personal property actually and regularly used in any Christmas tree operation. The term “Christmas tree operation” shall include the planting, cultivating and harvesting of Christmas trees; and selling or transporting Christmas trees. The term “Christmas tree machinery and equipment” shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer.

The provisions of this subsection shall apply to all taxable years commencing after December 31, 1992.

Sec. 8. K.S.A. 2001 Supp. 79-201j is hereby repealed.”;

By renumbering section 7 as section 9;

In the title, in line 10, following “act” by inserting “; amending K.S.A. 2001 Supp. 79-201j and repealing the existing section”.

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

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

