

Journal of the Senate

FIFTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 26, 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,

Some of us who have been around legislators for many years continue to be astounded at how their critics often engage in generalities; especially when their accusers are sometimes guilty of the very things of which they accuse the law makers.

They are called crooked by crooks.

They are called liars by liars.

They are called cowards by cowards.

They are called heathen by hypocrites.

They are called lazy by loafers.

They are called ignorant by ignoramuses.

They are called prejudiced by bigots.

They are called weak by weaklings.

When assailed by false accusations, O God, grant them two requests:

Shield their families from such vicious criticisms;

And help them not to respond in kind.

I pray in the Name of Christ, Who, being reviled, reviled not in return. (1 Peter 2:23)

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1625—

By Committee on Federal and State Affairs

A CONCURRENT RESOLUTION concerning a special program voucher.

WHEREAS, There are many individuals with special needs for which the state of Kansas is giving or would give assistance; and

WHEREAS, The cost of providing state assistance to such individuals continues to grow; and

WHEREAS, The economic pressures on the state budget make it increasingly harder to meet state needs; and

WHEREAS, The state needs to establish more and better alternatives to meet the demands for assistance to individuals with special needs and ease the strain on the state budget; and

WHEREAS, The special needs individual and such individual's family should have the freedom to choose, wherever reasonably possible, to self-direct their services: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we urge the state to have a qualified representative of each agency calculate what services would be provided to a special needs individual and the cost to the state for such assistance; and

Be it further resolved: That the state of Kansas establish a special voucher program wherein such individual or such individual's family would be given the opportunity to receive the state offered services or a voucher for 80% of whatever the calculated amount of the cost would be to the state agency delivering the services; and

Be it further resolved: That if such individual or such individual's family chooses the 80% voucher, such individual or such individual's family could use the funds to seek alternative services that such individual or such individual's family feels might best serve such individual's needs; and

Be it further resolved: That such individual's family may choose to deliver some of the services themselves or pay for services of equal or higher quality but of less duration of time; and

Be it further resolved: That if the special needs individual no longer needs services as a result of death, partial remedy or other circumstance, the state shall establish a formula for a prorated return of the funds already received but not used or create a system of regular voucher payments of short duration of time so that refunding would be unnecessary; and

Be it further resolved: That the 20% of state moneys saved by the state agency shall remain in the state agency from which the 80% funds came. The 20% saved shall be used by the agency to deliver services to other individuals needing services from such agency; and

Be it further resolved: That it is not intended that a special needs individual or such individual's family be penalized should the voucher system not work satisfactorily for that individual and such individual opts to return to using the state assistance; and

Be it further resolved: That the Secretary of Social and Rehabilitation Services report to the Governor and the Legislature in January of the 2003 legislative session regarding any progress made in regards to implementing this resolution; and

Be it further resolved: That the members of the Kansas Congressional Delegation upon receipt of a copy of this resolution be instructed to develop legislation that will encourage implementation and funding of this resolution on the federal level; and

Be it further resolved: That the Secretary of State is directed to send enrolled copies of this resolution to the Governor, state agencies which deliver services to individuals in Kansas and each member of the Kansas Congressional Delegation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Elections and Local Government: **SB 655**.

Financial Institutions & Insurance: **SB 654**.

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **HB 2607** and requests a conference and has appointed Representatives Freeborn, Sloan and Flora as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2704** and requests a conference and has appointed Representatives Freeborn, Myers and Flora as conferees on the part of the House.

Announcing passage of **HB 2643**, **HB 2736**, **HB 2737**, **HB 2785**, **HB 2828**, **HB 3011**, **HB 3021**.

Also, passage of **SB 390**, **SB 397**, **SB 469**, **SB 546**.

Also, Passage of **SB 392**, as amended, **SB 439**, as amended.

Adoption of **SCR 1622**.

The House concurs in Senate amendments to **HB 2658**.

The House concurs in Senate amendments to **HB 2794**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2643, HB 2736, HB 2737, HB 2785, HB 2828, HB 3011, HB 3021 were there-upon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Tyson the Senate nonconcurrent in the House amendments to **SB 504** and requested a conference committee be appointed.

The President appointed Senators Tyson, Taddiken and Lee, as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2607**.

The President appointed Senators Allen, O'Connor, and Downey as conferees on the part of the Senate.

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2704**.

The President appointed Senators Tyson, Taddiken, and Lee as conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2091**, as amended by House Committee of the Whole, be amended on page 1, by striking all in lines 18 through 43 and inserting the following:

“Section 1. K.S.A. 2001 Supp. 79-32,206 is hereby amended to read as follows: 79-32,206. For all taxable years commencing after December 31, ~~1997~~ 2001, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, the premiums tax upon insurance companies imposed pursuant to K.S.A. 40-252, and amendments thereto, and the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, an amount equal to 15% of the property tax levied for property tax year ~~1998~~ 2002, and 20% of the property tax levied for property tax year 2003, and all such years thereafter, actually and timely paid during an income or privilege taxable year upon commercial and industrial machinery and equipment classified for property taxation purposes pursuant to section 1 of article 11 of the Kansas constitution in subclass (5) or (6) of class 2 and machinery and equipment classified for such purposes in subclass (2) of class 2. If the amount of such tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount thereof which exceeds such tax liability shall be refunded to the taxpayer. If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability company.

New Sec. 2. For all taxable years commencing after December 31, 2003, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act who is engaged in a manufacturing business listed in sectors 31 through 33 and 5111 of the North American Industry Classification System, United States 2002 edition as in effect on January 1, 2002, an amount equal to 25% of the property tax levied for property tax year 2004, 30% of the property tax levied for property tax year 2005, 35% of the property tax levied for property tax year 2006, and 40% of the property tax levied for property tax year 2007, and all such years thereafter, actually and timely paid during an income taxable year upon commercial and industrial machinery and equipment classified for property taxation purposes pursuant to section 1 of article 11 of the Kansas constitution in subclass (5) of class 2. If the amount of such tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount thereof which exceeds such tax liability shall be refunded to the

taxpayer. If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability company. Any taxpayer claiming a credit pursuant to this section shall not be allowed a credit pursuant to K.S.A. 2001 Supp. 79-32,206, and amendments thereto.

Sec. 3. K.S.A. 2001 Supp. 79-32,206 is hereby repealed.”;

In the title, in line 12, by striking all after “to”; by striking all in lines 13 through 15 and inserting “income taxation; allowing credits therefrom for property tax paid on certain machinery and equipment; amending K.S.A. 2001 Supp. 79-32,206 and repealing the existing section.”; and the bill be passed as amended.

Also **HB 2569**, as amended by House Committee, be amended on page 1, in line 16, by striking “2000” and inserting “2001”; in line 39, by striking “2000” and inserting “2001”;

On page 5, in line 26, by striking “2000” and inserting “2001”;

In the title, in line 11, by striking “2000” and inserting “2001”; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 614** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 614,” as follows:

“Substitute for SENATE BILL No. 614

By Committee on Commerce

“AN ACT concerning the KAN-ED network; relating to funding thereof; amending K.S.A. 2001 Supp. 66-2010 and repealing the existing section.”;

and the substitute bill be passed.

Committee on **Financial Institutions and Insurance** recommends **HB 2879**, as amended by House Committee, be passed.

Committee on **Judiciary** recommends **HB 2880**, as amended by House Committee, be amended on page 2, in line 16, by striking “and by personnel”; in line 17, after the period, by inserting “Collection of specimens shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation.”; in line 23, by striking “immediately” and by inserting “as soon as practical”; also in line 23, by striking “Topeka”; in line 27, by striking “imme-”; in line 28, by striking “diately” and inserting “as soon as practical”; in line 31, by striking “and by personnel”; in line 32, after the period, by inserting “Collection of specimens shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation.”; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2680** be amended on page 3, following line 17, by inserting the following:

“New Sec. 2. The name of Toronto state park in Woodson county is hereby changed to Cross Timbers state park at Toronto Lake.

Sec. 3. K.S.A. 32-837 is hereby amended to read as follows: 32-837. (a) The following parks have been designated as a part of the state park system: (1) Kanopolis-Mushroom Rock state park in Ellsworth county; (2) *Cross Timbers state park at Toronto state park Lake* in Woodson county; (3) Fall River state park in Greenwood county; (4) Cedar Bluff state park in Trego county; (5) Tuttle Creek state park in Pottawatomie and Riley counties; (6) Pomona state park in Osage county; (7) Cheney state park in Kingman and Reno counties; (8) Lake Crawford state park in Crawford county; (9) Lovewell state park in Jewell county; (10) Lake Meade state park in Meade county; (11) Prairie Dog state park in Norton county; (12) Webster state park in Rooks county; (13) Wilson state park in Russell county; (14) Milford state park in Geary county; (15) Lake Scott state park in Scott county; (16) Elk City state park in Montgomery county; (17) Perry state park in Jefferson county; (18) Glen Elder state park in Mitchell county; (19) El Dorado state park in Butler county; (20) Eisenhower state park in Osage county; (21) Clinton state park in Douglas and Shawnee counties; (22) Sand Hills state park in Reno county; and (23) Hillsdale state park in Miami county.

(b) No state park named in subsection (a) shall be removed from the state park system without legislative approval.”;

By renumbering sections accordingly;

Also on page 3, in line 18, by striking “32-1050 is” and inserting “32-837 and 32-1050 are”; in line 20, by striking “statute book” and inserting “Kansas register”;

In the title, in line 9, after “ACT” by inserting “concerning wildlife and parks;”; in line 10, after the semicolon by inserting “changing the name of Toronto state park to Cross Timbers state park at Toronto Lake;”; also in line 10, after “K.S.A.” by inserting “32-837 and”; also in line 10, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2733**, as amended by House Committee, be amended on page 2, in line 19, by striking “and” and inserting “or”; also in line 19, after “assistance” by inserting “, or both;”; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2799** be passed.

Committee on **Ways and Means** recommends **SB 530** be amended on page 2, in line 22, by striking “, to retirants who are licensed”; by striking all in line 23; in line 24, by striking all before “or”; also in line 24, by striking “to”; in line 25, after the period, by inserting the following: “Commencing on the effective date of this act, and ending three years thereafter, the provisions of this subsection shall not apply to retirants who are licensed nurses employed by an institution under the jurisdiction and control of the secretary of social and rehabilitation services or the veterans commission during such period who either retired under the provisions of subsection (1), or, if such retirants retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act, except that the provisions of this act shall continue to apply to any such retirant employed during such period as provided in this act, on and after three years after the effective date of this act.”; and the bill be passed as amended.

Also **SB 644** be amended on page 5, in line 1, after “(x)” by inserting “(1)”; also in line 1, by striking “may” and inserting “shall”; in line 3, after the period by inserting “Any payment schedules which are a part of the state medicaid plan shall conform to state and federal law.”; also in line 3, by striking “The”; by striking all of lines 4 and 5; in line 6, by striking “federal law.”; in line 8, by striking all after the period; by striking all of lines 9 and 10; after line 10, by inserting the following:

“(2) The secretary shall consider budgetary constraints as a factor in establishing payment schedules so long as the result complies with state and federal law.”; and the bill be passed as amended.

HB 2810, as amended by House Committee, be amended on page 1, after line 27 by inserting the following:

“Sec. 2. K.S.A. 46-1212c is hereby amended to read as follows: 46-1212c. (a) Any report, pamphlet, book or other materials required to be submitted by a state agency to the legislature or the members thereof pursuant to K.S.A. ~~8-1201, 8-1760, 16a-6-104~~, 19-2674, 20-320, 20-2204, 22-3710, 25-4119a, 40-2309, 44-566a, 44-1004, 46-408, 50-628, 65-176, 65-4007, 72-6011, ~~72-6111~~, 72-6814, 74-5503, ~~74-6203~~, 74-6706, 75-3048, ~~75-3302c~~, ~~75-5020~~, 75-5326, 75-5375, 79-1404, 79-1806 and 79-4301, and amendments to any of the foregoing sections thereto, in lieu of such submission, shall be submitted to the director of legislative administrative services.

(b) *Notwithstanding the provisions of the sections enumerated in subsection (a), if a state agency which publishes any such report, pamphlet, book or other materials makes such report, pamphlet, book or other materials available to the public on the internet as provided under K.S.A. 75-3048 and amendments thereto, the state agency shall not be required to submit such report, pamphlet, book or other materials to the legislature or members thereof under the sections enumerated in subsection (a) or to the director of legislative administrative services under this section.*

(c) Upon submission of any such report, pamphlet, book or other materials to the director of legislative administrative services, the director shall compile and maintain a current listing thereof and shall make such listing available at least monthly to each member of the legislature by electronic mail. The director, upon request made therefor by any member of

the legislature, shall make available any such report, pamphlet, book or other materials enumerated on such listing to such requesting member.

Sec. 3. K.S.A. 75-3048 is hereby amended to read as follows: 75-3048. (a) Each state agency may have printed such reports, pamphlets, books and material as pertain to its activity and which are within the terms of a specific legislative authorization or appropriation *except that a state agency which makes such reports, pamphlets, books or material available to the public on the internet for a period of at least six months following the publication of such material is not required to print copies of such reports, pamphlets, books or material so long as the state agency retains an electronic copy of such report, pamphlet, book or material in the archives of the agency for historical purposes. If a state agency is required by law to provide a report, pamphlet, book or other material to another state agency or state official and the state agency makes such report, pamphlet, book or other material available to the public on the internet for a period of at least six months following the publication of such material, in lieu of providing such report, pamphlet, book or other material the state agency may notify such other state agency or state official that the report, pamphlet, book or other material is available on the internet by electronic mail.*

(b) *If copies are printed by the state agency, printed copies shall be delivered to the governor, state librarian, the secretary of the state historical society and the secretary of the legislative coordinating council and a copy shall be mailed or delivered to each member of the legislature. Printed copies of such publication shall be sold at approximately the cost of printing the same and the amount received therefrom shall be placed in the state treasury and credited to the fee fund of such agency, if it has a fee fund, and if not, to the general fund of the state except that research, industrial, agricultural and educational matter of general concern to the people of Kansas may be distributed without charge.*”;

Also on page 1, in line 28, after “46-925” by inserting “, 46-1212c, 75-3048”

By renumbering the remaining sections;

In the title, on page 1, in line 10, after “concerning” by inserting “reports, pamphlets, books and other printed materials; relating to”; in line 11, after “46-925” by inserting “, 46-1212c and 75-3048”; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

Sub SB 394; SB 398, SB 435, SB 464, SB 480, SB 507; Sub SB 556 reported correctly enrolled, properly signed and presented to the Governor on March 26, 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 Taddiken in the chair.

On motion of Senator Taddiken the following report was adopted:

Recommended **Sub HB 2673; HB 2813, HB 2820** be passed.

The committee report on **SB 584** recommending a **Sub SB 584** be adopted, and the substitute bill be passed.

The committee report on **HB 2621** recommending a **Senate Sub for HB 2621** be adopted, and the substitute bill be passed.

SB 622; HB 2078, HB 2624, HB 2676, HB 2772, HB 2781 be amended by adoption of the committee amendments, and the bills be passed as amended.

HCR 5014 be amended by adoption of the committee amendments, and the resolution be adopted as amended.

HB 2812 be amended by adoption of the committee amendments, be further amended by motion of Senator Gooch as amended by Senate Committee, on page 1, following the enacting clause, by inserting the following:

“Section 1. K.S.A. 2001 Supp. 16a-2-404 is hereby amended to read as follows: 16a-2-

404. (1) On consumer loan transactions in which cash is advanced:

- (a) With a short term,
- (b) a single payment repayment is anticipated, and

(c) such cash advance is equal to or less than \$860, a licensed or supervised lender may charge in lieu of the loan finance charges specified in K.S.A. 16a-2-401, and amendments thereto, the following amounts:

- (i) On any amount up to and including \$50, a charge of ~~\$5.50~~ \$4 may be added;
- (ii) on amounts in excess of \$50, but not more than \$100, a charge may be added equal to ~~10%~~ 8% of the loan proceeds plus a \$5 administrative fee;
- (iii) on amounts in excess of \$100, but not more than \$250 a charge may be added equal to ~~7%~~ 5% of the loan proceeds with a minimum of ~~\$10~~ \$8 plus a \$5 administrative fee;
- (iv) for amounts in excess of \$250 and not greater than the maximum defined in this section, a charge may be added equal to ~~6%~~ 4% of the loan proceeds with a minimum of ~~\$17.50~~ \$12.50 plus a \$5 administrative fee.

(2) The maximum term of any loan made under this section shall be 30 days.

(3) A lender and related interest shall not have more than two loans made under this section outstanding to the same borrower at any one time.

(4) Each loan agreement made under this section shall contain the following notice in at least 10 point bold face type: NOTICE TO BORROWER: KANSAS LAW PROHIBITS THIS LENDER AND THEIR RELATED INTEREST FROM HAVING MORE THAN TWO LOANS OUTSTANDING TO YOU AT ANY ONE TIME. A LENDER CANNOT DIVIDE THE AMOUNT YOU WANT TO BORROW INTO MULTIPLE LOANS IN ORDER TO INCREASE THE FEES YOU PAY.

(5) The contract rate of any loan made under this section shall not be more than 3% per month of the loan proceeds after the maturity date. No insurance charges or any other charges of any nature whatsoever shall be permitted, except as stated in subsection (7), including any charges for cashing the loan proceeds if they are given in check form.

(6) Any loan made under this section shall not be repaid by proceeds of another loan made under this section by the same lender or related interest. The proceeds from any loan made under this section shall not be applied to any other loan from the same lender or related interest.

(7) On a consumer loan transaction in which cash is advanced in exchange for a personal check, a return check charge may be charged if the check is deemed insufficient as defined in paragraph (e) of subsection (1) of K.S.A. 16a-2-501, and amendments thereto.

(8) In determining whether a consumer loan transaction made under the provisions of this section is unconscionable conduct under K.S.A. 16a-5-108, and amendments thereto, consideration shall be given, among other factors, to:

- (a) The ability of the borrower to repay within the terms of the loan made under this section; or
- (b) the original request of the borrower for amount and term of the loan are within the limitations under this section.

(9) This section shall be supplemental to and a part of the uniform consumer credit code.”;

By renumbering sections accordingly;

Also on page 1, in line 31, by striking “is” and inserting “and K.S.A. 2001 Supp. 16a-2-404 are”;

In the title, in line 13, after the semicolon, by inserting “concerning payday loans.”; also in line 13, after “16a-3-308”, by inserting “and K.S.A. 2001 Supp. 16a-2-404”; in line 14, by striking “section” and inserting “sections”, and **HB 2812** be passed as further amended.

On motion of Senator Donovan the Senate adjourned until 2:30 p.m., Wednesday, March 27, 2002.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

