

Journal of the Senate

FORTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 11, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

In previous prayers I've dealt with
Love and Joy and Peace
The fourth fruit of the Spirit
Is PATIENCE that won't cease.

In scripture it is used to mean
Your attitude, Lord, toward us.
You exercise much patience
And neither fuss nor "cuss".

The great preacher, Chrysostom,
Said it's the grace of a man
Who refuses to avenge himself
When obviously he can.

One writer says it's persistent patience
Which refuses to surrender in defeat,
Which continues to keep on trying,
Until the victory is complete.

What does patience mean to us
Who have a deficit to fill,
When compromise is difficult,
And progress is uphill?

We must be patient with each other,
And debate with some constraint;
To be grateful when they're agreeable,
And be patient when they ain't!

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

POINT OF PERSONAL PRIVILEGE

Senator Kultala rose on a point of personal privilege to introduce, on behalf of herself and Senator Holland, the 2008-2009 Class of Southern Leavenworth County Leadership Development group. This year's class has 16 students, representing a mix of professionals

from various businesses and two high school students. They represent the communities of Basehor, Tonganoxie, Lansing and Linwood.

Senator Apple rose on a point of personal privilege to introduce the Miami County Leadership Class.

Senator Emler rose on a point of personal privilege to introduce the Hope High School Senior Government Class and its teacher.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 311, An act concerning the state budget; state general fund and special revenue fund expenditures, transfers and ending balance requirements; reduction and allotment procedures; economic impact statements and fiscal note updates for legislation; amending K.S.A. 75-3722 and 75-6704 and repealing the existing sections, by Committee on Ways and Means.

SB 312, An act concerning property taxation; relating to public utilities; natural gas inventories; amending K.S.A. 2008 Supp. 79-5a01 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **SB 310**.

REFERRAL OF APPOINTMENTS

The following appointments made by the Speaker of the House and Senate President and submitted to the senate for confirmation, were referred to Committee as indicated:

By the Speaker of the House:

Member, Kansas Health Policy Authority, Garen Cox, effective upon the date of confirmation by the Senate to serve a term of four years.

(Ways and Means)

By the President of the Senate:

Member, Kansas Health Policy Authority, Joe Tilghman, effective upon the date of confirmation by the Senate to serve a term of four years.

(Ways and Means)

COMMUNICATIONS FROM STATE OFFICERS

KANSAS HUMAN RIGHTS COMMISSION

March 6, 2009

In accordance with KSA 44-1004 (13), William V. Minner, Executive Director, submitted the Annual Report for the Fiscal Year 2008, July 1, 2007 through June 30, 2008.

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 **SB 46**, **SB 77**, **SB 187**.

Also, announcing the appointment of Representative Knox to replace Representative Moxley as a conferee on **Senate Substitute for Substitute 2014**.

FINAL ACTION ON CONSENT CALENDAR

HB 2045 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

HB 2045, An act designating bridge no. 85 on United States highway 166 in Labette county as the veterans memorial bridge.

U.S. highway 166 in Labette county as the veterans memorial bridge.
On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

SB 212, An act concerning alcoholic beverages; concerning shipment of wines; repealing K.S.A. 2008 Supp. 41-348 and 41-349, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pyle.

The bill passed, as amended.

SB 213, An act concerning alcoholic liquor; regarding consumption of alcoholic liquor in public; amending K.S.A. 2008 Supp. 41-719 and 41-2645 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Kelsey, Pyle, Reitz.

The bill passed, as amended.

SB 223, An act concerning the emergency medical services board; subpoena authority; amending K.S.A. 65-6130 and K.S.A. 2008 Supp. 65-6111 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wysong.

Nays: Abrams, Apple, Huelskamp, Ostmeyer, Pilcher-Cook, Pyle, Vratil.

The bill passed.

SB 262, An act concerning emergency medical services; scope of practice of certain attendants; titles of certain attendants; amending K.S.A. 19-4608, 21-2511, 44-1204, 65-6121, 65-6129c, 65-6135, 65-6144, 65-6145 and 66-1810 and K.S.A. 2008 Supp. 8-1001, 65-6001, 65-6112, 65-6119, 65-6120, 65-6124, 65-6129, 75-4364 and 80-2518 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed, as amended.

HB 2023, An act relating to motor carriers; concerning enforcement of certain state corporation commission orders, 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2068, An act concerning real estate brokers and salespersons; relating to licensure; amending K.S.A. 2008 Supp. 58-3035, 58-3046a, 58-3050, 58-3062, 58-3080, 58-3082, 58-3083, 58-3084, 58-3085 and 58-3086 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2091, An act relating to manufactured housing; concerning modular homes; amending K.S.A. 58-4203 and repealing the existing section, 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

HB 2142, An act concerning licensure and continuing education requirements for certain trades and crafts; amending K.S.A. 2008 Supp. 12-1509, 12-1526 and 12-1542 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The bill passed.

Sub HB 2339, An act concerning certified public accountants; relating to licensure, examination, registration and peer review; amending K.S.A. 1-307, 1-315 and 1-322 and K.S.A. 2008 Supp. 1-301, 1-302b, 1-308, 1-310, 1-311, 1-312, 1-316, 1-321 and 1-501 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 6, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Huelskamp, Masterson, Ostmeyer, Pilcher-Cook, Pyle.

The substitute bill passed.

REPORT ON ENGROSSED BILLS

SB 212, SB 213, SB 262 reported correctly engrossed March 11, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2172** be passed.

Committee on **Education** recommends **HB 2001** be passed.

Committee on **Financial Institutions and Insurance** recommends **HB 2185**, as amended by House Committee, be passed.

Also, **HB 2052** be amended on page 6, in line 25, by striking “and”; in line 27, by striking the period and inserting “;” and

(8) a policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to part C or part D of subchapter XVIII, chapter 7 of title 42 of the United State code (commonly known as medicare part C & D) or any regulations issued pursuant thereto.”;

And the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2207; HB 2232** be passed.

Committee on **Public Health and Welfare** recommends **SB 248** be amended on page 1, in line 27, by striking the comma and inserting “and”; also in line 27, by striking “and internet”; also in line 27, preceding the colon by inserting “that are required to be registered under K.S.A. 65-1643 or 65-1657, and amendments thereto”;

On page 2, in line 1, by striking the comma, where it appears for the first time, and inserting “and”; also in line 1, by striking “and signature”; following line 7, by inserting the following:

“(c) Notwithstanding the requirements of this section, each pharmacy shall maintain the purchaser’s signature in accordance with subsection (k) of K.S.A. 65-1643, and amendments thereto.”;

And by relettering the remaining subsections accordingly;

Also on page 2, in line 8, following “pharmacy” by inserting “that is capable”; also in line 8, by striking “at the”; in line 9, by striking “point of sale”; by striking all in line 11; in line 12, by striking all preceding “Such” and inserting the following:

“(e) The board may grant a waiver exempting a pharmacy from compliance with the requirements of this section upon showing of good cause by the pharmacy that is otherwise unable to submit log information by electronic means for various reasons, including, but not limited to, mechanical or electronic failure or financial, technological or any other undue burden on the pharmacy, established by rules and regulations.”;

Also on page 2, by striking all in lines 19 through 23 and inserting the following:

“New Sec. 3. (a) The cost of establishing and maintaining the statewide electronic logging system shall be borne by the state, other non-state units of government, private entities, or others. Pharmacies shall not be required to bear the costs associated with establishing and maintaining the electronic logging system, whether statewide, regional, county-wide or otherwise as provided in this section.

(b) In the event that funding for a statewide program is not available, the board may implement the program on a non-statewide basis, whether such program is funded regionally or county-wide or otherwise. The board shall, by rules and regulations, prescribe that such regional or non-statewide program comply with requirements applicable to a statewide program, including that such non-state governmental units or regional programs may not utilize different vendors. Any requirements of this act shall only be applicable to pharmacies within such units of government or regions, if a regional program is established, and all other pharmacies in the state shall be exempt from requirements for the electronic logging system required pursuant to this act.

(c) If the state, other non-state units of government, private entities or others are unable to bear the costs of establishing and maintaining the electronic logging system, pharmacies within the state, or in the case of regional or other non-statewide programs, pharmacies within those program areas shall be relieved of any obligation to comply with the statewide electronic logging system program pursuant to this act. Such pharmacies shall still be subject to the requirements of maintaining a log as provided in subsection (k) of K.S.A. 65-1643, and amendments thereto.

(d) The board shall not impose any charges for the establishment or maintenance of the program for the recording of methamphetamine precursors on a pharmacy. The board shall

not charge any fees for the transmission of data to the program database or for the receipt of information from the database.

(e) The state board of pharmacy may receive and expend, or supervise the expenditure of, any donation, gift, grant or bequest made to the board for furthering any phase of the statewide electronic logging system program.”;

Also on page 2, in line 37, by striking “for their patients” and inserting “to an individual patient”;

On page 3, in line 7, by striking all following the period; in line 8, by striking all preceding “Any” and inserting “The state agency or private vendor selected shall have the technological capability to receive electronic log data from pharmacies submitted pursuant to section 2, and amendments thereto, and to send real time notification to law enforcement officials. Regardless of the entity selected to manage the program, pharmacies are not required to use any one particular vendor’s product to comply with the requirements under section 2, and amendments thereto. Any electronic system implemented by the state shall be capable of bridging with existing and future operational systems used by pharmacies at no cost to such pharmacies.”; in line 10, by striking “section 5” and inserting “this section”; in line 11, by striking “10” and inserting “7”; in line 26, by striking “90 days” and inserting “a year”; following line 38, by inserting the following:

“New Sec. 8. Sections 1 through 8, and amendments thereto, shall be known and may be cited as the statewide electronic logging system for sale of methamphetamine precursor act.”;

And by renumbering the remaining sections accordingly;

On page 6, in line 1, by striking “3” and inserting “2”; and the bill be passed as amended. Committee on **Ways and Means** recommends **SB 22** be amended on page 1, in line 21, by striking “board” and inserting “court”; in line 22, by striking “shall make a tax levy at the first tax levying”; in line 23, by striking “period” and inserting “may pay such warrants with revenues from any available source. If there are no available revenues or if such revenues are insufficient to pay such warrants, the board shall make not more than two annual tax levies, as determined by the board, at the next succeeding tax-levying periods”; in line 26, by striking “2011” and inserting “2012”; and the bill be passed as amended.

Also, **SB 285** be amended on page 2, in line 37, by striking “any fiscal year” and inserting “fiscal years 2010, 2011 and 2012. The provisions of this subsection (f) shall expire on June 30, 2012”; and the bill be passed as amended.

COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Barnett in the chair.

On motion of Senator Barnett the following report was adopted:

Recommended: **SB 204**, **SB 254**; **HB 2004**, **HB 2092** be passed.

SB 257; **HB 2158** be amended by adoption of the committee amendments, and the bills be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, March 12, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

