

Journal of the Senate

TWENTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, February 15, 2010—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,

Today is Presidents' Day, but since I pray for Washington and Lincoln on their birthday anniversaries, I am continuing to pray for our current President on this day.....

So I offer, O God,
This petition:
That President Obama
Will use his position

To carry out
Your perfect will,
So Your desires
Will be fulfilled.

I intercede
On his behalf
For him to use
His handiwork

To thank You
In advance, O Lord,
For how You'll
Accomplish one accord.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 546. An act providing for assessments on certain nursing facilities; prescribing powers, duties and functions for the Kansas health policy authority; creating the quality care assessment fund; providing for implementation and administration, by Committee on Ways and Means.

SB 547. An act concerning workers compensation; pertaining to disability benefits; pertaining to medical benefits; pertaining to notice requirements; amending K.S.A. 44-510c, 44-510d, 44-510e, 44-510f, 44-510j and 44-520 and K.S.A. 2009 Supp. 44-510h and repealing the existing sections, by Committee on Ways and Means.

SB 548. An act concerning taxation; relating to technical colleges; authority of county or counties to impose and levy sales and property taxes for support thereof; procedures, by Committee on Federal and State Affairs.

CHANGE OF REFERENCE

The President withdrew **SB 418** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Ethics and Elections**.

The President withdrew **SB 510** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Natural Resources**.

The President withdrew **SB 458, SB 459, SB 460, SB 488, SB 519, SB 533** from the Committee on **Judiciary**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **HB 2411** from the Committee on **Judiciary**, and referred the bill to the Committee on **Public Health and Welfare**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2226, HB 2364, HB 2435, HB 2445, HB 2468, HB 2482, HB 2484, HB 2491; Substitute HB 2528; HB 2551, HB 2554.**

The House concurs in Senate amendments to **HB 2414**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2226, HB 2364, HB 2435, HB 2445, HB 2468, HB 2482, HB 2484, HB 2491; Substitute HB 2528; HB 2551, HB 2554 were thereupon introduced and read by title.

REPORT ON ENGROSSED BILLS

SB 452, SB 479; SCR 1615 reported correctly engrossed February 12, 2010.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HCR 5027** be adopted.

Committee on **Judiciary** recommends **SB 411** be passed.

Also, **SB 369** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

SB 346 be amended on page 1, after line 13, by inserting the following:

"Section 1. K.S.A. 21-4632 is hereby amended to read as follows: 21-4632. (a) If the defendant is to be sentenced to the custody of the secretary of corrections, the court may prepare a judgment form which shall be signed by the court and filed with the clerk. If prepared, the judgment form shall reflect the conviction, the sentence and the commitment, and shall contain the following:

(1) The pronouncement of guilt including:

(A) The title of the crime;

(B) the statute violated; and

(C) the date the offense occurred.

(2) The sentence imposed including:

(A) The severity level of the crime of conviction, criminal history designation and grid block or departure sentence;

(B) if applicable, a description of any increase in sentence because of departure criteria;

(C) if applicable, a statement that this defendant has been convicted of severity levels 1 through 5 by reason of aiding, abetting, advising or counseling another to commit a crime, or by reason of the principle provided in subsection (2) of K.S.A. 21-3205 and amendments thereto;

(D) a statement of the effective date of the sentence indicating whether it is the date of imposition or some date earlier to give credit for time confined pending disposition of the case pursuant to K.S.A. 21-4614 and amendments thereto or credit for time on probation or assignment to community corrections pursuant to K.S.A. 21-4614a and amendments thereto.

(3) The order of commitment to the custody of the secretary, if not issued as a separate order.

(b) The court may attach to or include in the judgment form any of the following:

- (1) A statement of reasons for imposing a departure sentence;
- (2) a description of aggravating or mitigating circumstances the court took into consideration when ordering the commitment;
- (3) the copy of the evidence from trial or part thereof transmitted pursuant to K.S.A. 75-5219 and amendments thereto.

(c) The court shall forward a copy of all *complaints, supporting affidavits, county and district attorney reports*, presentence investigation reports and other diagnostic reports on the offender received by the district court, including any reports received from ~~the Topeka correctional facility—east~~ or the state security hospital, to the officer having the offender in custody for delivery with the offender to the correctional institution.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 16, by striking “three” and inserting “four”;

On page 2, in line 15, by striking “offender shall remain in the custody of the sheriff until the”; by striking all in lines 16 and 17; in line 18, by striking all before the period and inserting “secretary may order the offender discharged from the prison portion of the sentence”; in line 19, before “K.S.A.” by inserting “K.S.A. 21-4632 and”; also in line 19, by striking “is” and inserting “are”;

In the title, in line 10, before “K.S.A.” by inserting “K.S.A. 21-4632 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

SB 370 be amended on page 1, in line 21, after “means” by inserting “parent,”; after line 24, by inserting the following:

“(e) “Member of the military” means a member of the armed forces or national guard on active duty or a member of an active reserve unit in the armed forces or national guard.”;

And by relettering the remaining subsections accordingly;

On page 2, in line 1, by striking “person on active military de-”; in line 2, by striking “ployment” and inserting “member of the military”; in line 15, after “America” by inserting “and separated from the armed forces under honorable conditions”; and the bill be passed as amended.

SB 381 be amended on page 1, following line 14, by inserting the following:

“New Section 1. The provisions of this act are to be construed and applied retroactively.”;

And by renumbering remaining sections accordingly;

Also on page 1, in line 15, by striking “Section” and inserting “Sec.”; in line 33, following the period, by inserting “There shall be a rebuttable presumption that such person had a reasonable belief that such threat or use of force was necessary to prevent or terminate such other’s unlawful entry into or attack upon such person’s dwelling or occupied vehicle.”; in line 38, following the period, by inserting “There shall be a rebuttable presumption that such person had a reasonable belief that such threat or use of deadly force was necessary to prevent imminent death or great bodily harm to such person or another.”;

On page 2, in line 34, following “involving” by inserting “death or”; and the bill be passed as amended.

SB 386 be amended on page 2, in line 7, after the comma by inserting “the prosecuting attorney shall request and”; in line 8, after “defendant” by inserting “or any other person”; and the bill be passed as amended.

SB 434 be amended on page 2, in line 36, after “employed” by inserting “and the offender has knowledge that such person is a student enrolled at the school where the offender is employed”;

On page 3, in line 1, after “the” where it appears the first time, by inserting “direct”; also in line 1, by striking “court services and the”; by striking all in lines 2 and 3; in line 4, by striking all before the semicolon and inserting “the offender”; in line 11, after “the” by inserting “direct”; also in line 11, by striking “community corrections and”; by striking all in lines 12 and 13; in line 14, by striking all before the period and inserting “the offender”; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SB 497** be passed.

Committee on **Transportation** recommends **SB 409** be passed.

Also, **SR 1821** be adopted.

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 McGinn in the chair.

On motion of Senator McGinn the following report was adopted:

Recommended **SB 234, SB 363, SB 395** be passed.

SB 222, SB 305, SB 367, SB 398, SB 408, SB 453, SB 489, SB 490, SB 491 be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **SB 353** recommending a **Sub SB 353** be adopted, and the substitute bill be passed.

SB 424 be amended by motion of Senator Teichman on page 1, in line 16, after "credit" by inserting "or debit"; in line 17, after "credit" by inserting "or debit"; in line 22, after "credit" by inserting "or debit"; in line 26, after "credit" by inserting "or debit" and **SB 424** be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, February 16, 2010.

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

PAT SAVILLE, *Secretary of the Senate.*

