

Journal of the Senate

THIRTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, February 20, 2012, 2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with thirty-nine senators present.
Senator Love was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

It's Black History Month,
And today is President's Day.
About which, O God
There's something I must say.

Being reared in the South
During racial segregation,
When I entered Seminary
I faced a different orientation.

So I resolved from that point on
To seek a new direction
Toward establishing friendship
And racial integration.

So we joined a Baptist Church
With a black congregation
And today we have friends
And a joyful association.

So I pray for our President,
The first one of his Race,
Keep him safe and well,
And bestow on him Your Grace.

I pray in the name of Jesus Christ, AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 433, AN ACT making and concerning appropriations for fiscal years ending June 30, 2012, June 30, 2013, and June 30, 2014 for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2011 Supp. 2-223, 12-5256, 55-193, 72-8814, 74-50,107, 74-99b34, 75-2319, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-34,171 and 82a-953a and repealing the existing sections, by Committee on Ways and Means.

SB 434, AN ACT concerning corrections; relating to the purchase of land, by Committee on Ways and Means.

SB 435, AN ACT concerning water; providing for establishment of a conservation reserve enhancement program, by Committee on Ways and Means.

SB 436, AN ACT concerning the department of health and environment; relating to education and screening for congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases and disorders; creating the Kansas newborn screening fund; amending K.S.A. 2011 Supp. 65-180 and repealing the existing section, by Committee on Ways and Means.

SB 437, AN ACT concerning the Kansas pet animal act; relating to inspection of facilities; amending K.S.A. 47-1701 and K.S.A. 2011 Supp. 47-1709 and repealing the existing sections, by Committee on Federal and State Affairs.

CHANGE OF REFERENCE

The Vice President withdrew **SB 339** from the Committee on **Assessment and Taxation**, and referred the bill to the Committee on Ways and Means.

The Vice President withdrew **SB 327**, **SB 328** from the Committee on **Public Health and Welfare**, and referred the bills to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2324**, **HB 2413**, **HB 2469**; **Sub HB 2470**; **HB 2496**, **HB 2499**, **HB 2537**.

Also, announcing adoption of **HCR 5031**.

The House accedes to the request of the Senate for a conference on **SB 211** and has appointed Representatives Landwehr, Donohoe and Flaharty as conferees on the part of the House.

Announcing passage of **SB 118**, as amended by **House Substitute for SB 118**.

Announcing passage of **Substitute HB 2455**, **HB 2484**, **HB 2531**, **HB 2593**, **HB 2600**, **HB 2685**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2324, **HB 2413**; **Substitute HB 2455**; **HB 2469**, **Sub HB 2470**; **HB 2484**, **HB 2496**; **HB 2499**, **HB 2531**, **HB 2537**, **HB 2593**, **HB 2600**, **HB 2685** were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Marshall and A. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1822—

A RESOLUTION recognizing the historical significance of Higley Cabin as the birthplace of our Kansas state song, "Home on the Range" and encouraging Kansas school children to support preservation of this historic site through the statewide "Coins for the Cabin" initiative.

WHEREAS, Dr. Brewster Higley, a frontier doctor, penned a six-verse poem titled "My Western Home" in 1872 near his home along the banks of Beaver Creek in Smith County, Kansas; and

WHEREAS, The poem was first published in *The Smith County Pioneer* in 1873; and was set to music later that same year by Kansans Daniel Kelley and the Harlan brothers; and

WHEREAS, Dr. Higley's song became known as "Home on the Range" and quickly became a national treasure. In 1933, President Franklin Delano Roosevelt declared "Home on the Range" as his favorite song; and

WHEREAS, The Kansas Legislature adopted Higley's song as the Kansas state song on June 30, 1947; and

WHEREAS, Higley Cabin was named to the National Register of Historic Places; and has remained at its original location, and open to the public, for more than a century because of the foresight and generosity of landowners Pete and Ellen Rust; and

WHEREAS, Kansans, throughout the years, including members of the Smith County Rotary Club, the Rust family, the Ellen Rust Living Trust and area farmers, have volunteered their time and resources to protect Higley Cabin; and

WHEREAS, This year marks the 140th anniversary of Dr. Higley's poem: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the historical significance of Higley Cabin be recognized and revered as the birthplace of our Kansas state song, "Home on the Range"; and

Be it further resolved: That the Ellen Rust Living Trust and artist Gary Hawk be commended for their leadership on "Coins for the Cabin," an effort to generate the financial resources needed to restore Higley Cabin and protect its rightful place in American history; and

Be it further resolved: That Kansas schoolchildren be encouraged by their teachers, parents, classmates and community leaders to partake in the statewide "Coins for the Cabin" effort and this opportunity to learn more about the significance of Higley Cabin to our state's history; and

Be it further resolved: That Kansans everywhere join our state's schoolchildren in supporting the "Coins for the Cabin" effort and this important opportunity to preserve Higley Cabin for future generations; and

Be it further resolved: That the Secretary of the Senate shall send two enrolled copies

of this resolution to the Ellen Rust Living Trust, one enrolled copy to Mr. El Dean Holthus, one enrolled copy to Mr. Gary Hawk and one enrolled copy to the Kansas State Historical Society.

On emergency motion of Senator Marshall **SR 1822** was adopted unanimously.

Senator Marshall introduced El Dean Holtus, his wife Kathy, Gary Hawk, his wife Beverly, Gerald Caspers, his wife Betty and Glen Caspers in recognizing the historical significance of Higley Cabin as the birthplace of our Kansas state song, "Home on the Range." Also in attendance in support of the preservation of the historic site were: Susan Hawk, Debbie Smail, Alex Smail, Mark Obermueller, Lora Obermueller, Brecken Obermueller, Mike Franklin, T.C. Dolphin, Michael Smail, Keith Hooper, Mark Hooper, Pat Hooper, Michael Hooper, Esther Willis, Marcelline Vaughan and Danna Higley Conner. The guests were recognized with a standing ovation.

Senator A. Schmidt thanked Senator Marshall for his initiative on the Higley Cabin preservation. Because of the foresight of a number of special people, this relic of Kansas history, which has grown to international prominence, is still standing today in Senate District thirty-six, the District of former Senator Janis Lee from Smith County, who was in attendance and recognized. I simply want to say that we owe a great deal of appreciation to those who worked so diligently over the years to preserve our great history. It's personally great, after years of military service, to live back home on the Range. Senator Reitz invited the chamber to join him in singing "Home on the Range."

REPORT ON ENGROSSED BILLS

SB 102, SB 281, SB 299, SB 305, SB 316, SB 324, SB 325, SB 331, SB 348; H Sub SB 191 reported correctly engrossed February 17, 2012.

REPORTS OF STANDING COMMITTEES

Committee on **Ethics and Elections** recommends **SB 333** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 333," as follows:

"Substitute for SENATE BILL NO. 333

By Committee on Ethics and Elections

"AN ACT concerning elections; relating to petitions; amending K.S.A. 2011 Supp.

25-205, 25-302a, 25-303, 25-3602, 25-4005, 25-4306, 25-4310 and 25-4320 and repealing the existing sections.";

And the substitute bill be passed.

Committee on **Judiciary** recommends **SB 330, SB 394** be passed.

Also, **SB 282** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 282," as follows:

"Substitute for SENATE BILL NO. 282

By Committee on Judiciary

"AN ACT concerning covered offenses and conduct giving rise to forfeiture; relating to fleeing or eluding; amending K.S.A. 2011 Supp. 60-4104 and repealing the existing section.";

And the substitute bill be passed.

SB 283 be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 283," as follows:

"Substitute for SENATE BILL NO. 283

By Committee on Judiciary

"AN ACT concerning sheriffs; relating to fees; amending K.S.A. 2011 Supp. 28-110 and repealing the existing section.";

And the substitute bill be passed.

Committee on **Natural Resources** recommends **SB 375** be amended on page 2, in line 38, by striking all after "of"; in line 39, by striking all before "by" and inserting "solid waste generated by drilling oil and gas wells"; in line 42, after the period by inserting "For any area that annually receives more than 25 inches of precipitation, as determined by the department, any solid waste disposed of by land spreading shall be incorporated into the soil. No land spreading shall occur on any area where the water table is less than 10 feet or on any area where there is documented groundwater contamination as determined by the department.";

On page 3, in line 4, after the comma by inserting "drilling mud additives,"; in line 6, by striking "Kansas" and inserting "state"; in line 19, by striking "Kansas" and inserting "state"; in line 22, after the period by inserting "On or before January 30, 2013 and 2014, the state corporation commission shall present a report on the costs associated with the regulation of land spreading pursuant to this section to the senate standing committees on natural resources and ways and means and to the house standing committees on agriculture and natural resources and appropriations."; in line 38, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Also, **SB 406** be amended on page 1, in line 22, by striking ", 42 U.S.C."; by striking all in lines 23 and 24; in line 25, by striking "*et seq.*, as amended"; also in line 25, by striking the third comma and inserting "(42 U.S.C. § 3152 *et seq.*, 42 U.S.C. § 6991 *et seq.*, as in effect on January 1, 2012)"; in line 26, by striking "the effective date of"; in line 27, by striking "this act" and inserting "January 1, 2012";

On page 4, in line 13, by striking "underground"; in line 14, by striking all before "fund" and inserting "UST redevelopment";

On page 5, in line 23, by striking "fuel";

On page 8, in line 36, by striking "and" and inserting "or";

On page 10, in line 15, after "(3)" by inserting:

"The secretary may, in the secretary's discretion, determine those costs which are allowable as underground storage tank removal costs.

(d) ";

Also on page 10, in line 20, by striking "and"; in line 22, after the semicolon by inserting "and

(3) A deed restriction was placed on the property prohibiting the installation of underground storage tanks for the 10 years following the date of the underground storage tank removal. As a condition for reimbursement, the applicant must provide a notarized copy of the recorded deed restriction for the property with the seal of the register of deeds to the department.";

On page 11, in line 4, after "cleaning" by inserting "and disposal"; in line 17, by striking "Kansas essential fuel supply trust" and inserting "UST redevelopment"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2525** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be

placed on the consent calendar.

Committee on **Ways and Means** recommends **HB 2453; HB 2460** as amended by House Committee, be passed and, because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

On motion of Senator Emler, the Senate adjourned until 2:30 p.m, Tuesday, February 21, 2012.

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

PAT SAVILLE, *Secretary of the Senate.*

