

Journal of the Senate

THIRTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 21, 2017, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with 40 senators present.
Invocation by Reverend Cecil T. Washington:

Heavenly Father, You've called these servants to serve; not to be self-serving, but to the humble task of serving Your people.

As we take on the responsibilities...the daunting responsibilities associated with this charge, keep us mindful of the promise You made, in Hebrews 13:5, to never leave us nor forsake us. For in not leaving us, we can count on your constant presence and in not forsaking us, we can count on Your ever-present support.

Again, I'm reminded of the advice coming from George Washington's mother, as he set out to serve Your people. She said, "remember that God is our only sure trust."

The early pilgrims were inspired to adopt the motto, "In God We Trust." But truly learning to trust You, is the most daunting task we face. It's so tempting to put our trust in the weak arm of the flesh and to reason, to our own disappointment...to our own setback, that "I've got this!"

In Proverbs 3:5-7, You used the Psalmist, in telling us to trust in You, and not lean on our own fragile, deficient sense of understanding.

Like You did with those in the early development of this country, inspire us, stir us, motivate us to adopt that foundational, under-girding motto, "In God We Trust." Not just to engrave it on our money, but to have it engraved in our hearts. For You and You alone, can totally be trusted. In Jesus' Name, I pray, Amen.

The Pledge of Allegiance was led by President Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 206, AN ACT concerning school districts; creating the student privacy and protection act, by Committee on Federal and State Affairs.

SB 207, AN ACT concerning gaming; relating to the Kansas expanded lottery act; making and concerning appropriations for the fiscal year ending June 30, 2018, for the Kansas lottery; relating to the state debtor setoff program; relating to horse and greyhound racing; amending K.S.A. 74-8836 and K.S.A. 2016 Supp. 74-8734, 74-8741, 74-8744, 74-8746, 74-8747, 74-8766, 74-8814 and 75-6204 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 208, AN ACT concerning counties; relating to the expansion of the board of county commissioners; amending K.S.A. 2016 Supp. 19-203 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture and Natural Resources: **HB 2191**.

Financial Institutions and Insurance: **SB 205**; **HB 2111**.

Judiciary: **HB 2234**.

Public Health and Welfare: **HB 2031**, **HB 2121**.

Ways and Means: **HB 2130**.

COMMITTEE OF THE WHOLE

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

The morning session recommended:

SB 51, **SB 56**, **SB 65**, **SB 66**, **SB 67**, **SB 110** be passed.

SB 25 be amended by motion of Senator Billinger: on page 1, in line 8, after "for" by inserting: ":

(1) ";

Also on page 1, in line 9, before the period by inserting ";

(2) camping permits at state parks";

Also on page 1, in line 11, by striking "such"; also in line 11, after "cabins" by inserting "and camp sites"; in line 12, after "cabins" by inserting "and camp sites"; in line 18, after "tourism" by inserting "and camping permits at state parks" and **SB 25** be passed as amended..

SB 36, **SB 52**, **SB 60**, **SB 87**, **SB 92**, **SB 126**, be amended by the adoption of the committee amendments, and the bills be passed as amended.

A motion by Senator Haley to amend **SB 92** failed.

SB 144 be amended by the adoption of the committee amendments.

A motion by Senator Pettey to amend **SB 144** was withdrawn.

The committee rose and reported progress (see Committee of the Whole, afternoon session.)

On motion of Senator Denning, the Senate recessed until 2:00 p.m.

The senate met, pursuant to recess with Vice President Longbine in the chair.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2079**, **HB 2102**, **HB 2125**, **HB 2158**, **HB 2170**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2079, **HB 2102**, **HB 2125**, **HB 2158**, **HB 2170** were thereupon introduced and read by title.

ORIGINAL MOTION

Having voted on the prevailing side, Senator Taylor moved the Senate reconsider its action on **SB 126**. The motion carried and the bill was returned to Committee of the Whole.

COMMITTEE OF THE WHOLE

The Senate returned to the Committee of the Whole, for further consideration of bills on the calendar under the heading of General Orders with Senator Masterson in the chair.

On motion of Senator Masterson, the morning report and the following afternoon report were adopted.

SB 26, SB 75 be passed.

SB 126 be further amended by motion of Senator Taylor; on page 1, in line 14, after "convicted" by inserting "of a felony" and **SB 126** be passed as further amended.

The committee report on **SB 74** recommending a **Sub SB 74** be adopted and be further amended by motion of Senator Billinger; on page 1, in line 17, after the period by inserting "A person meeting the requirements of this section may also request the director to issue a decal to be affixed to the license plate of a motor vehicle in addition to the placard and that such information be included as part of the vehicle registration." and **Sub SB 74** be passed as amended.

A motion by Senator Hawk to amend **SB 74** failed.

SB 32 be amended by the adoption of the committee amendments, be further amended by motion of Senator Tyson; on page 5, in line 8, after "center" by inserting "or at Larned state hospital, Osawatomie state hospital or any facility that provides mental health services and that is operated by a state agency"

SB 32 be further amended by motion of Senator Wilborn; on page 8, following line 19, by inserting:

"(h) Notwithstanding any other provision of law to the contrary, no moneys shall be transferred from the comprehensive grant program account of the state board of regents to the medical loan repayment fund or the psychiatry medical loan repayment fund or expended for any purposes related thereto.";

On page 11, following line 7, by inserting:

"(m) Notwithstanding any other provision of law to the contrary, no moneys shall be transferred from the comprehensive grant program account of the state board of regents to the rural health bridging psychiatry fund or expended for any purposes related to the Kansas medical residency bridging program."

SB 32 be further amended by motion of Senator Tyson; on page 11, following line 7, by inserting:

"Sec. 7. K.S.A. 2016 Supp. 75-3373 is hereby amended to read as follows: 75-3373. (a) Notwithstanding any other provision of law, ~~the Kansas department for aging and disability services, solely or in consultation or cooperation with any other state agency, no state agency shall not enter into any agreement or take any action to outsource or privatize any operations or facilities of the Larned state hospital or, the Osawatomie state hospital or any facility that provides mental health services and that is operated by a state agency~~ without prior specific authorization by an act of the legislature or an appropriation act of the legislature. The restriction imposed by this

subsection applies to any action to outsource or privatize all or any part of any operation or facility of the Larned state hospital, the Osawatomie state hospital or any facility that provides mental health services and that is operated by a state agency, including, but not limited to, any action to transfer all or any part of the rated bed capacity at the Larned state hospital or the Osawatomie state hospital, in effect on the effective date of this act, to another facility.

(b) Nothing in this section shall prevent the Kansas department for aging and disability services from renewing, in substantially the same form as an existing agreement, any agreement in existence prior to March 4, 2016, for services at the Larned state hospital or the Osawatomie state hospital.

(c) Nothing in this section shall prevent the Kansas department for aging and disability services from entering into an agreement for services at the Larned state hospital or the Osawatomie state hospital with a different provider if such agreement is substantially similar to an agreement for services in existence prior to March 4, 2016.

Sec. 8. K.S.A. 76-12a07 is hereby amended to read as follows: 76-12a07. The secretary may adopt rules and regulations for the government, regulation and operation of institutions. The secretary may adopt rules and regulations relating to the assignment of all persons admitted to institutions, except that the secretary shall take no action to transfer or assign any person admitted to an institution for the purpose of circumventing the restrictions imposed by K.S.A. 2016 Supp. 75-3373, and amendments thereto.;

Also on page 11, in line 8, after "76-387" by inserting "and 76-12a07"; also in line 8, after "Supp." by inserting "75-3373,";

And by renumbering sections accordingly;

On page 1, in the title, in line 5, after the semicolon by inserting "concerning mental healthcare facilities;"; also in line 5, after "76-387" by inserting "and 76-12a07"; in line 6, after "Supp." by inserting "75-3373," and **SB 32** be passed as further amended.

SB 50 be amended by the adoption of the committee amendments, be further amended by motion of Senator Petersen; on page 2, in line 4, after the first "a" by inserting "current or" and **SB 50** be passed as further amended.

A motion by Senator Pettey to further amend **SB 144** failed and the following amendment was rejected: on page 1, by striking all in line 7 through 36;

On page 2, by striking all in lines 1 through 9; following line 9, by inserting:

"Section 1. K.S.A. 2016 Supp. 8-15,111 is hereby amended to read as follows: 8-15,111. (a) As used in this section:

(1) "Wireless communication device" means any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages or a laptop computer. "Wireless communication device" does not include a device which is voice-operated and which allows the user to send or receive a text based communication without the use of either hand, except to activate or deactivate a feature or function.

(2) "Write, send or read a written communication" means using a wireless communication device to manually type, send or read a written communication, including, but not limited to, a text message, instant message or electronic mail.

(b) Except as provided in subsections (c) and (d), no person shall operate a motor vehicle on a public road or highway while: (1) Holding a wireless communication

device; or (2) using a wireless communications device to write, send or read a written communication.

(c) The provisions of subsection (b) shall not apply to:

(1) A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment;

(2) a motor vehicle stopped off the regular traveled portion of the roadway;

(3) ~~a person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call;~~

(4) ~~a person who receives an emergency, traffic or weather alert message; or~~

~~(5)~~(4) a person receiving a message related to the operation or navigation of the motor vehicle; or

(5) a person with a valid amateur radio operator license issued by the federal communications commission.

(d) The provisions of subsection (b) shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:

(1) Report current or ongoing illegal activity to law enforcement;

(2) prevent imminent injury to a person or property; ~~or~~

(3) relay information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle;

(4) summon medical or other emergency assistance; or

(5) operate two-way radio communications equipment to report information to the national weather service or any other emergency service provider.

(e) From and after the effective date of this act and prior to January 1, ~~2011~~ 2018, a law enforcement officer shall issue a warning citation to anyone violating subsection (b) (1).

(f) This section shall be part of and supplemental to the uniform act regulating traffic on highways.";

On page 7, in line 22, by striking "text messaging" and inserting "use of a wireless communication device"; by striking all in lines 23 through 26;

On page 11, in line 32, after "Supp." by inserting "8-15,111 and"; also in line 32, by striking "is" and inserting "are";

On page 1, in the title, in line 1, by striking "in"; in line 2, by striking all before the semicolon; in line 3, after "device" by inserting ", penalties, exceptions"; also in line 3, after "Supp." by inserting "8-15,111 and"; in line 4, by striking "section" and inserting "sections"

Upon the showing of five hands, a roll call vote was requested.

On roll call, the vote was: Yeas 14; Nays 25; Present and Passing 0; Absent or Not Voting 1.

Yeas: Berger, Bollier, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey, Rogers, Skubal, Sykes, Taylor.

Nays: Alley, Baumgardner, Billinger, Bowers, Denning, Doll, Estes, Fitzgerald, Givens, Goddard, Kerschen, LaTurner, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pilcher-Cook, Pyle, V. Schmidt, Suellentrop, Tyson, Wagle, Wilborn.

Absent or Not Voting: Hardy.

And **SB 144** be passed as amended.

SB 45, SB 100 be passed over and retain a place on the calendar.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **SB 46** be amended on page 2, in line 6, after "and" by inserting "one or more of the"; also in line 6, by striking all after "provisions"; by striking all in lines 7 through 10; in line 11, by striking "engineer" and inserting "provided in subsection (b)";

On page 4, in line 20, after the period by inserting "Notification shall include a reference to an electronic publication of the management plan and any relevant technical analysis.";

On page 5, in line 3, after "(m)" by inserting "Notwithstanding K.S.A. 82a-1039, and amendments thereto, nothing in this section shall be construed as limiting or affecting any duty or power of a groundwater management district granted to such district by the Kansas groundwater management district act.

(n) ";

Also in line 3, by striking "may" and inserting "shall";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly; and the bill be passed as amended.

Also, **SB 48** be amended on page 2, in line 2, by striking the first "or" and inserting a comma; also in line 2, after "curtails" by inserting "or prevents"; in line 13, by striking "investigate" and inserting "initiate an investigation of"; also in line 13, by striking the comma; also in line 13, after "and" by inserting "provide notice of such investigation to the complainant and the allegedly impairing party or parties."; in line 14, after "investigation" by inserting ", the chief engineer"; in line 20, by striking "or" and inserting a comma; also in line 20, after "curtails" by inserting "or prevents"; in line 32, by striking "or" and inserting a comma; also in line 32, after "curtails" by inserting "or prevents"; in line 35, by striking the second "or" and inserting a comma; also in line 35, after "curtailing" by inserting "or preventing"; and the bill be passed as amended.

SB 61 be amended on page 1, in line 12, by striking "2028" and inserting "2023"; in line 17, by striking "2028" and inserting "2023"; in line 24, by striking "2028" and inserting "2023"; in line 31, by striking "2028" and inserting "2023";

On page 2, in line 1, by striking "2028" and inserting "2023"; in line 21, by striking "may, by order," and inserting "shall"; in line 22, after "(f)" by inserting "by adopting rules and regulations"; in line 24, by striking all after the period; by striking all in lines 25 through 26 and inserting "The secretary may"; in line 27, by striking the comma and inserting "by adopting rules and regulations"; in line 30, after "the" by inserting "maximum"; in line 35, by striking "2028" and inserting "2023"; in line 43, by striking "2028" and inserting "2023";

On page 3, in line 5, by striking "2028" and inserting "2023"; in line 9, after the period by inserting "On and after January 1, 2018,"; in line 10, after "produced" by inserting "and less than 6,000,000 pounds of milk is processed annually"; in line 12, by striking "2028" and inserting "2023"; in line 22, by striking "2028" and inserting "2023"; in line 28, after the period by inserting "On and after January 1, 2018,"; in line 30, after "produced" by inserting "and less than 6,000,000 pounds of milk is processed annually"; in line 32, by striking "2028" and inserting "2023"; in line 41, by striking "2028" and inserting "2023";

On page 4, in line 27, by striking "may, by order," and inserting "shall"; in line 28, after "(h)" by inserting "by adopting rules and regulations"; in line 30, by striking all after the period; by striking all in line 31; in line 32, by striking all before "increase"

and inserting "The secretary may"; in line 33, after "(h)" by inserting "by adopting rules and regulations"; in line 36, after "the" by inserting "maximum"; by striking all in lines 37 through 43;

On page 5, by striking all in lines 1 through 9; in line 10, by striking "K.S.A. 74-576 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, by striking all after "amending"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 69** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 69," as follows:

"Substitute for SENATE BILL NO. 69

By Committee on Public Health and Welfare

"AN ACT concerning the Kansas program of medical assistance; process and contract requirements; claims appeals.";

And the substitute bill be passed.

Also, **SB 95** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 95," as follows:

"Substitute for SENATE BILL NO. 95

By Committee on Public Health and Welfare

"AN ACT concerning public assistance; relating to eligibility; requirements; telephonic signatures for applications; amending K.S.A. 2016 Supp. 39-709 and repealing the existing section.";

And the substitute bill be passed.

SB 68 be amended on page 3, in line 4, by striking "or"; in line 8, after "contract" by inserting "; or

(4) provide grounds for any adverse licensure action or other disciplinary action against any hospital by the department of health and environment, against any licensee of the state board of healing arts or against any licensee of the board of nursing"; in line 9, after "after" by inserting "July 1, 2018, and"; and the bill be passed as amended.

On motion of Senator Denning, the Senate adjourned until 10:00 a.m., Wednesday, February 22, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

