

Journal of the Senate

SIXTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 4, 2003—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,

They looked for a happy landing,
But it was not to be.
Their air space ship Columbia
Landed in debris.

And seven gifted astronauts
After sixteen days in flight,
Never reached their loved ones
With whom they could unite.

They were seven of the brightest:
Smart, courageous, tough.
They were prime examples
Of what we call "right stuff".

Families' grief intensifies
When loved ones' lives abort;
Seemingly in the prime of life,
productive lives cut short.

But help them to discover, Lord,
When old age is not allowed,
What is more important
Is not when we die, but how.

Families can be thankful
For their pride will make them smile
Because their loved ones gave themselves
For a cause worthwhile.

So many families' memories
Are of loved ones who have died,
Having wasted all their lives
Leaving nothing deserving pride.

So as we grieve we give our thanks
As we humbly bow,
And remember what's important
Is not when we die, but how.

I pray in the Name of the Resurrected Christ,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 130, An act relating to apportioned registration of fleet vehicles; amending K.S.A. 8-1,100 and repealing the existing section, by Committee on Transportation.

SB 131, An act relating to livestock; concerning application of certain requirements to public livestock markets; amending K.S.A. 65-171d and repealing the existing section, by Committee on Natural Resources.

SB 132, An act concerning automated external defibrillators; amending K.S.A. 65-6149a and repealing the existing section, by Committee on Public Health and Welfare.

SB 133, An act concerning workers compensation; relating to compilation and publication of certain statistics and data; amending K.S.A. 2002 Supp. 44-557a and repealing the existing section, by Committee on Commerce.

SB 134, An act concerning land and water recreational areas; relating to limited liability; agritourism and ecotourism; amending K.S.A. 58-3201 and 58-3202 and repealing the existing sections, by Committee on Commerce.

SB 135, An act concerning meat and poultry; relating to inspections of livestock; amending K.S.A. 65-6a18 and repealing the existing section, by Committee on Agriculture.

SB 136, An act concerning school districts and community colleges; relating to the jurisdiction of persons employed as police officers; amending K.S.A. 2002 Supp. 22-2401a and repealing the existing section, by Committee on Federal and State Affairs.

SB 137, An act concerning crimes, criminal procedure and punishment; relating to hate crimes; prescribing penalties therefor; reporting requirements; amending K.S.A. 2002 Supp. 21-4704 and 21-4716 and repealing the existing sections, by Senator Haley.

SB 138, An act concerning elections; relating to restoration to felons of the right to vote; amending K.S.A. 2002 Supp. 21-4615 and repealing the existing section, by Senator Haley.

SB 139, An act regarding dentists and dentistry; relating to dental hygienists; amending K.S.A. 65-1456 and repealing the existing section, by Committee on Public Health and Welfare.

SB 140, An act concerning tourism; establishing a state tourism advertising fund, by Committee on Commerce.

SB 141, An act concerning administrative procedure; concerning presiding officers; amending K.S.A. 2-1208a, 2-3311, 8-2426, 21-3110, 31-140, 36-509, 40-2,137, 44-322a, 44-1005, 49-606, 65-163, 65-163a, 65-525, 65-526, 65-673, 65-780, 65-786, 65-2305, 65-3483, 65-3488, 65-3490, 66-1,117, 74-4904, 74-8804, 74-8816, 74-8817, 74-8837, 75-6207, 76-3110, 77-505, 77-549, 77-550, 77-551, 77-551 as amended by section 41 of this act, 79-3313, 82a-1405, 82a-1501a, 82a-1502 and 82a-1504 and K.S.A. 2002 Supp. 75-37,121, 77-514, 77-514 as amended by section 37 of this act and 82a-1503 and repealing the existing sections; also repealing K.S.A. 75-37,122 and 75-5611a, by Committee on Judiciary.

SENATE CONCURRENT RESOLUTION No. 1607—

By Senators Schmidt and Downey, Adkins, Barnett, Buhler, Emler, Gooch, Goodwin, Lee, Morris, Oleen, Schodorf, Steineger, Teichman, Umbarger and Vratil

A PROPOSITION to revise article 10 of the constitution of the state of Kansas, relating to redistricting of legislative districts, state board of education districts and congressional districts.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 10 of the constitution of the state of Kansas is hereby revised to read as follows:

“Article 10.—LEGISLATIVE, STATE BOARD OF EDUCATION
AND CONGRESSIONAL REDISTRICTING

“§ 4. **Redistricting required; basis.** (a) Kansas house of representative districts, Kansas senate districts, state board of education districts and United States congress districts shall be redistricted in 2012 and every 10th year thereafter, as provided by this article.

(b) Redistricting of Kansas house of representative districts, Kansas senate districts, state board of education districts and congressional districts shall be based upon the population of the state of Kansas as established by the most recent actual enumeration of population taken and published by the United States bureau of the census.

“§ 5. **Establishment of redistricting commission.** (a) Not later than February 15 of the year before the year when redistricting is required, a redistricting commission shall be established to recommend to the legislature redistricting plans for Kansas house of representative districts, Kansas senate districts, state board of education districts and United States congress districts.

(b) The redistricting commission shall consist of the following members:

(1) The secretary of state, who shall serve as chairperson of the commission and shall be a nonvoting member; and

(2) one member each appointed by the following from among persons nominated pursuant to subsection (c): The governor, the chief justice of the Kansas supreme court, the chief judge of the Kansas court of appeals, the president of the Kansas senate, the minority leader of the Kansas senate, the speaker of the Kansas house of representatives and the minority leader of the Kansas house of representatives.

(c) On or before January 1 of the year before the year when redistricting is required, the supreme court nominating commission shall nominate 25 qualified voters of the state of Kansas for appointment to the redistricting commission. Appointment of members of the commission pursuant to subsection (b)(2) shall be from among such nominees.

(d) Any appointment pursuant to subsection (b)(2) by the president or minority leader of the Kansas senate must be approved by resolution of the Kansas senate. Any appointment pursuant to subsection (b)(2) by the speaker or minority leader of the Kansas house of representatives must be approved by resolution of the Kansas house of representatives. Any other appointment pursuant to subsection (b)(2) must be approved by the Kansas legislature by concurrent resolution. If any appointment has not been made and so approved before adjournment *sine die* of the regular legislative session of the year when the redistricting commission is established, the chief judge of the Kansas court of appeals shall make such appointment from among persons nominated pursuant to subsection (c). Any such appointment shall be made not later than 14 days after the adjournment *sine die* and shall not be subject to legislative approval.

(e) Any vacancy in the membership of the redistricting commission shall be filled in the same manner as the original appointment and the appointment shall be subject to legislative approval as provided by subsection (d), except that a vacancy after adjournment *sine die* of the regular legislative session of the year when the commission is established shall be filled not later than 14 days after occurrence of the vacancy by appointment by the chief judge of the Kansas court of appeals from among persons nominated pursuant to subsection (c). No such appointment shall be subject to legislative approval.

(f) Not more than four members of the redistricting commission shall be members of the same political party and there shall be at least one resident of each Kansas congressional district on the commission.

(g) No person, while a member of the commission, shall:

(1) Hold any federal, state or local office, other than judge of a municipal court, county court or district court or judge of the Kansas court of appeals; or

(2) be an employee of the Kansas legislature, state board of education or United States congress.

(h) No person who has been a member of the redistricting commission shall be eligible, within two years after being a member of the commission, to:

(1) Be a member or employee of the Kansas legislature or state board of education; or

(2) hold any appointive state office, other than judge of the district court, judge of the Kansas court of appeals or justice of the Kansas supreme court.

(i) The legislature shall provide by law for payment of compensation and expenses of members of the redistricting commission and for adequate staff, office space, equipment and materials for the commission.

(j) The terms of members of the redistricting commission shall expire on July 1 of the year when redistricting occurs pursuant to this article and the commission shall be inactive until reestablishment of the commission at the time of the next redistricting pursuant to this article.

“§ 6. Commission procedure and recommendations. (a) The redistricting commission shall establish such rules and procedures as necessary to carry out the commission’s functions. Such rules and procedures shall include rules requiring formal submission to the commission of all communications with commission members. *Ex parte* communications with members of the commission in relation to the merits of matters before the commission shall be prohibited. Members of the commission shall report to the attorney general any violations of the prohibition and the legislature shall provide criminal penalties for such violations.

(b) The redistricting commission shall conduct public hearings throughout the state, including at least one public hearing in each state board of education district.

(c) In recommending redistricting plans, the redistricting commission shall consider only the requirements of this constitution and federal law, preservation of political subdivisions, preservation of communities of interests and avoidance of placing more than one incumbent in a district. Except as expressly provided in this subsection, the commission shall not intentionally develop districts that favor or discriminate against any individual, political party or group.

“§ 7. Legislative action; court review and action. (a) On or before the first day of the regular legislative session in the year when redistricting is required, the redistricting commission shall introduce in the house of representatives a bill redistricting Kansas house of representative districts and a bill redistricting congressional districts and shall introduce in the senate a bill redistricting Kansas senate districts and a bill redistricting state board of education districts. Such bills shall not be subject to amendment by either house of the legislature and each such bill shall be acted upon by each house within seven days after such bill is introduced in such house.

(b) If a bill introduced pursuant to subsection (a) is not enacted, the redistricting commission, within 10 days after rejection of the bill by either house of the legislature or veto of the bill by the governor, shall introduce another bill redistricting such districts. If the Kansas supreme court enters judgment that a bill introduced pursuant to subsection (a) is invalid, the redistricting commission, within 10 days after entry of such judgment, shall introduce another bill redistricting such districts. Introduction of a bill pursuant to this subsection shall be in the same house as introduction of the original bill pursuant to subsection (a). Such bill shall not be subject to amendment by either house and shall be acted upon by each house within seven days after the bill is introduced in such house.

(c) If a bill introduced pursuant to subsection (b) is not enacted, the redistricting commission, within 10 days after rejection of the bill by either house of the legislature or veto of the bill by the governor, shall introduce another bill redistricting such districts. If the Kansas supreme court enters judgment that a bill introduced pursuant to subsection (b) is invalid, the redistricting commission, within 10 days after entry of such judgment, shall introduce another bill redistricting such districts. Introduction of a bill pursuant to this subsection shall be in the same house as introduction of the original bill pursuant to subsection (a). Such bill shall be subject to amendment

by each house and shall be acted upon by each house within 14 days after the bill is introduced in such house. When a bill is introduced pursuant to this subsection, the commission shall make the commission's staff and technical resources available to the legislature for use in preparation and consideration of amendments to such bill.

(d) Redistricting bills shall be published in the Kansas register immediately upon final passage and approval by the governor. The districts enacted shall be effective for the next following regular election and thereafter until again such districts are redistricted, except that the senate districts shall be effective for the next following regular election at which all senators are elected.

(e) Within 15 days after publication of any redistricting bill enacted pursuant to this article, but not later than May 1 of the year when redistricting is required, the attorney general shall petition the Kansas supreme court to determine the validity of such bill. The supreme court, in accordance with its rules, shall permit interested persons to present their views. Within 30 days after the filing of such petition, the supreme court shall enter its judgment. A judgment of the supreme court determining redistricting to be valid shall be final until redistricting of the districts is again required by this article.

(f) Regardless of whether there is sufficient time to complete all procedures provided by this section, if on May 1 of the year when redistricting is required no bill has become law to redistrict any districts as so required, the attorney general shall petition the Kansas supreme court to redistrict the districts which have not been redistricted. The supreme court, in accordance with the rules of the court, shall permit interested persons to present their views. Within 30 days after the filing of such petition, the supreme court shall redistrict such districts in accordance with law, making as little change as practicable in the existing districts and taking into consideration only the requirements of this constitution and federal law, preservation of political subdivisions and preservation of communities of interests. The redistricting commission shall make the commission's staff and technical resources available to the supreme court for use in redistricting such districts.

“§ 8. **Implementing legislation.** The legislature may enact legislation, not in conflict with the provisions of this article, as reasonably necessary to implement such provisions.”

Sec. 2. The following statement shall be printed on the ballot with the revision as a whole:

“*Explanatory statement.* Current article 10 of the state constitution governs redistricting of legislative districts. It provides for redistricting by the legislature and requires it to be based on the most recent census taken by the U.S. bureau of the census, adjusted to exclude certain military personnel and certain students at colleges and universities. This revision of article 10 would govern redistricting of legislative, state board of education and congressional districts. Under the revision a redistricting commission would be established to recommend redistricting plans to the legislature. The legislature would enact a plan which would be subject to review by the state supreme court. There would be strict deadlines for legislative action and if no plan is adopted by the deadline, the state supreme court would redistrict the districts. Redistricting would be based on the most recent census taken by the U.S. bureau of the census without adjustment.

“A vote for this proposition would change the procedure for redistricting of legislative, state board of education and congressional districts and the population data on which redistricting is based.”

“A vote against this proposition would continue the current procedures and basis for redistricting.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2004 unless a special election

is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated:

Agriculture: **SB 124; SCR 1604, SCR 1606.**
 Committee of the Whole: **SR 1807.**
 Education: **SB 128.**
 Natural Resources: **SB 125.**
 Financial Institutions & Insurance: **SB 127.**
 Judiciary: **SB 123, SB 126.**
 Public Health and Welfare: **SB 129; SCR 1605.**

GUESTS OF THE SENATE

Guests of the Senate were Girl Scouts from across the state celebrating Girl Scout Day at the Capitol.

Shadowing Senator Brownlee was Kirsten French, Overland Park; Senator Downey, Victoria Bond, Emporia; Senator Goodwin, Angela Tickle, Fort Scott; Senator Oleen, Casi Bruner, McPherson; and Senator Teichman, Phylleicia Julian, Ellinwood.

MESSAGE FROM THE GOVERNOR

February 4, 2003

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

KATHLEEN SEBELIUS
 Governor

Secretary, Department of Corrections, Roger Werholtz, pursuant to the authority vested in me by KSA 75-5203, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

Secretary, Department of Health and Environment, Roderick Bremby, pursuant to the authority vested in me by KSA 75-5601, effective upon the date of confirmation by the Senate to serve at the pleasure of the Governor.

Secretary, Department of Transportation, Deb Miller, pursuant to the authority vested in me by KSA 75-5001, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

Secretary, Department of Wildlife and Parks, J. Michael Hayden, pursuant to the authority vested in me by KSA 32-801, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS WATER OFFICE

January 31, 2003

Clark Duffy, Director, Kansas Water Office, submitted one water supply contract, Water Purchase Contract Number 02-4, negotiated under the provisions of the State Water Plan Storage Act (K.S.A. 82a-1301 *et al.*) and approved by the Kansas Water Authority during their meeting on November 14, 2002.

The contract was between the State of Kansas and Public Wholesale Water Supply District No. 23 for a Public Water Supply from Big Hill Lake.

KANSAS STATE SENATE
Office of the President

February 4, 2003

Pat Saville
Secretary of the Senate
Senate Chamber
Topeka, KS 66612

Dear Pat:

This is official notification that effective immediately, I have created the President's Task Force on Medicaid Reform and have appointed the following senators to serve on this working group:

Senator Stan Clark, Chairman
Senator Jim Barnett
Senator Pete Brungardt
Senator Paul Feleciano
Senator Tim Huelskamp
Senator Janis Lee

Sincerely,

Dave Kerr
Senate President

The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

REFERRED TO COMMITTEE

The President referred Water Purchase Contract Number 02-4 to the Committee on Natural Resources.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2031**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2031 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Donovan introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1808—

A RESOLUTION congratulating and commending the 2002-2004
Captains of the Kansas Road Team.

WHEREAS, The Captains of the Kansas Road Team program has been an integral part of the Kansas Motor Carriers Association for 10 years; and

WHEREAS, Jack Larson and Kent Durant, professional truck drivers for Roadway Express in Kansas City; Vaughn Harris and Jeff Davis, professional truck drivers for Wal-Mart stores in Ottawa and Leon Kuhn, a professional Truck Driver for Golden Plains Trucking in Hays are the 2002-2004 Captains of the Kansas Road Team; and

WHEREAS, These professional truck drivers travel the state promoting the trucking industry and showing the motoring public how to share safely the road with trucks; and

WHEREAS, These five drivers have a combined total of more than nine million accident-free miles and 109 years of driving experience; and

WHEREAS, These five drivers join the 25 former captains of the Kansas Road Team as professional spokesmen for the trucking industry and represent the best of the best in Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend these five professional truck drivers for their impeccable driving records and for being selected as the 2002-2004 Captains of the Kansas Road Team; and

Be it further resolved: That the Secretary of the Senate provide six enrolled copies of this resolution to Mr. Tom Whitaker, Kansas Motor Carriers Association, 2900 SW Topeka, Blvd., Topeka, KS 66611.

On emergency motion of Senator Donovan **SR 1808** was adopted unanimously.

Senator Donovan introduced and welcomed the Road Team Captains, who were guests of the Senate—Jack Larson, Kent Durant, Vaughn Harris, Jeff Davis and Leon Kuhn.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 46** be amended on page 1, in line 17, before “bond” by inserting “cash”; in line 26, before “bond” by inserting “cash”; in line 28, before “bond” by inserting “the”; also in line 28, by striking “unless there is a”; in line 29, by striking all before the period; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 21** be passed.

Also **SB 28** be amended on page 2, in line 4, by striking “regulation” and inserting “registration”; in line 41, before “than” by inserting “more”;

On page 16, after line 35, by inserting the following:

“New Sec. 18. (a) When any professional corporation which files an annual report with the secretary of state in accordance with the provisions of K.S.A. 17-2718, and amendments thereto, shall apply for an extension of time for filing its annual income tax return from the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing with the secretary of state, prior to the due date of its annual report, a copy of the application to income tax authorities. All such copies of applications for extension of the time for filing income tax returns filed on or after December 31, 1978, shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto and subsection (c) of this section. All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

(b) Except in accordance with subsection (c) of this section or a proper judicial order, it shall be unlawful for the secretary of state or any other officer, employee, former officer or former employee of this state to disclose any information contained in copies of federal extensions of income tax returns. Nothing in this section shall be deemed to prohibit the secretary of state or any officer or employee of the office of secretary of state from issuing any of the corporate documents described in K.S.A. 17-7506 and amendments thereto.

(c) All copies of such applications shall be open to inspection by or disclosure to:

(1) Any person designated by resolution of the corporation’s board of directors or other similar governing body;

(2) any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer; or

(3) any bona fide shareholder of record owning 1% or more of the outstanding stock of such corporation.”;

And by renumbering sections accordingly; and the bill be passed as amended.

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 Emler in the chair.

On motion of Senator Emler the following report was adopted:

Recommended **SB 14**, **SB 17**, **SB 19**, **SB 31** be passed.

On motion of Senator Oleen an emergency was declared, the rules suspended, and **SR 1807** was advanced on the calendar under the heading of General Orders.

The Committee recommended **SR 1807** be adopted.

HCR 5001 be adopted.

SB 47 be amended by adoption of the committee amendments, be further amended by motion of Senator Morris, as amended by Senate Committee, on page 5, in line 28, by striking "2003", where it appears for the second time, and inserting "2004";

On page 7, in line 22, by striking "2003" and inserting "2004", and **SB 47** be passed as further amended.

S Sub for HB 2026 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Morris, on page 2 by striking all in lines 17 through 29, and **S Sub for HB 2026** be passed as amended.

SB 11 be passed over and retain a place on the calendar.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Wednesday, February 5, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

