

Journal of the Senate

TWENTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, February 10, 2003—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with thirty-seven senators present.
Senators Barnett, Gilstrap and Teichman were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I heard about the following epitaph which was inscribed on a tombstone:

As I am so you will be;
So prepare for death and follow me.

But according to the story someone had taken a black crayon and added the following rhyme:

To follow you I'm not content
Until I know which way you went!

While I have a great appreciation for humor, I trust, O God, that You would prefer that the last commentary on our life would read something like this:

For what I did wrong,
I take all the blame;
For what I did right,
God gets the acclaim!

I pray this in the Name of Christ,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

SB 175, An act concerning the state general fund; relating to estimates of revenues; amending K.S.A. 75-6701 and repealing the existing section, by Committee on Ways and Means.

SB 176, An act concerning insurance; relating to the use of insurance scores, by Senator Feleciano.

SB 177, An act concerning taxation; providing for a tax credit against the income tax liability of certain business firms, by Senator Jordan.

SB 178, An act concerning cities; relating to improvements and payment therefor; amending K.S.A. 12-6a01, 12-6a04 and 12-6a08 and repealing the existing sections, by Committee on Elections and Local Government.

SB 179, An act concerning divorce and separate maintenance; relating to grounds; amending K.S.A. 60-1601 and repealing the existing section, by Senator Lyon.

SB 180, An act concerning emergency telephone systems relating to extension of such systems to include wireless service and cable telephony service; providing for financing

thereof; establishing a wireless enhanced 911 advisory board; amending K.S.A. 12-5301 and repealing the existing section, by Committee on Commerce.

SB 181. An act concerning workers compensation; relating to work disability; amending K.S.A. 44-501 and 44-510e and K.S.A. 2002 Supp. 44-508 and repealing the existing sections; also repealing K.S.A. 44-510a, by Committee on Commerce.

SB 182. An act relating to estate taxation; concerning conformity to federal law; inheritance or succession tax; amending K.S.A. 2002 Supp. 79-15,101, 79-15,102 and 79-15,119 and repealing the existing sections; also repealing K.S.A. 2002 Supp. 79-15,127, by Senator Adkins.

SB 183. An act concerning crimes, criminal procedure and punishment; relating to the interstate compact for juveniles; repealing K.S.A. 38-1001, 38-1002, 38-1003, 38-1004, 38-1005, 38-1006 and 38-1007, by Senator Adkins.

SB 184. An act concerning motor vehicles; relating to drivers' licenses; requiring the posting of revoked drivers' names on a website; amending K.S.A. 8-249 and repealing the existing section, by Senator Adkins.

SB 185. An act concerning crimes, criminal procedure and punishment; relating to driving under the influence; also relating to the elimination of the voluntary intoxication defense; amending K.S.A. 21-3208 and 32-1131 and K.S.A. 2002 Supp. 8-1567 and 60-4117 and repealing the existing sections, by Senator Adkins.

SB 186. An act concerning penitential communication; relating to the duties of ministers; amending K.S.A. 2002 Supp. 38-1522 and repealing the existing section, by Senator Adkins.

SB 187. An act concerning forensic services and laboratory analysis; relating to fees; amending K.S.A. 2002 Supp. 28-176 and repealing the existing section, by Committee on Judiciary.

SB 188. An act relating to telecommunications; concerning telephone solicitations; amending K.S.A. 2002 Supp. 50-670 and 50-670a and repealing the existing sections, by Committee on Judiciary.

SB 189. An act concerning crimes, criminal procedure and punishment; relating to possession of controlled substances; sentencing; expansion or construction of minimum security facilities; amending K.S.A. 2002 Supp. 21-4705 and repealing the existing section, by Committee on Judiciary.

SB 190. An act concerning the state board of education; relating to the members thereof; amending K.S.A. 25-101, 25-202, 25-1903, 25-1906, 25-3903, 25-3905, 25-3906 and 72-7504 and repealing the existing sections; also repealing K.S.A. 25-3902a and 25-3904a, by Committee on Education.

SB 191. An act concerning motor vehicles; relating to fuel purchases for state motor vehicles, by Committee on Agriculture.

SB 192. An act concerning sales taxation; enacting the streamlined sales and use tax agreement conformity act; local sales tax transportation development district act; amending K.S.A. 12-191, 12-198, 75-5151, 79-3607, 79-3608 and 79-3651 and K.S.A. 2002 Supp. 12-194, 25-432, 79-3602, 79-3603, 79-3606, 79-3650 and 79-3703 and repealing the existing sections; also repealing K.S.A. 12-191a, by Committee on Assessment and Taxation.

SB 193. An act concerning the Kansas lottery; creating the electronic gaming commission to study the operation of electronic gaming machines at parimutuel racetrack facilities and provide a mechanism for the implementation thereof; amending K.S.A. 74-8702 and K.S.A. 2002 Supp. 46-237a and 46-247 and repealing the existing sections, by Senator Hensley.

SENATE CONCURRENT RESOLUTION No. 1608—

By Committee on Ways and Means

A PROPOSITION to amend section 8 of article 2 of the constitution of the state of Kansas, relating to the duration of sessions of the legislature.

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: Section 8 of article 2 of the constitution of the state of Kansas is hereby amended to read as follows:

“§ 8. **Organization and sessions.** The legislature shall meet in regular session annually commencing on the second Monday in January, and all sessions shall be held at the state capital. The duration of ~~each regular sessions held in even-numbered years~~ session shall not exceed ~~ninety~~ *eighty-eight* calendar days. ~~Each such sessions~~ session may be extended beyond ~~ninety~~ *eighty-eight* calendar days by an affirmative vote of ~~two-thirds of the~~ *a majority of all* members elected (or appointed) and qualified to each house, ~~except that no regular session can be extended by more than two calendar days.~~ Bills and concurrent resolutions under consideration by the legislature upon adjournment of a regular session held in an odd-numbered year may be considered at the next succeeding regular session held in an even-numbered year, as if there had been no such adjournment.

The legislature shall be organized concurrently with the terms of representatives except that the senate shall remain organized during the terms of senators. The president of the senate shall preside over the senate, and the speaker of the house of representatives shall preside over the house of representatives. A majority of the members then elected (or appointed) and qualified of the house of representatives or the senate shall constitute a quorum of that house. Neither house, without the consent of the other, shall adjourn for more than two days, Sundays excepted. Each house shall elect its presiding officer and determine the rules of its proceedings, except that the two houses may adopt joint rules on certain matters and provide for the manner of change thereof. Each house shall provide for the expulsion or censure of members in appropriate cases. Each house shall be the judge of elections, returns and qualifications of its own members.”

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

“Explanatory statement. The purpose of this amendment is to limit the duration of the annual regular sessions of the Kansas legislature. It imposes a limit of eighty-eight calendar days for each regular session. It removes the existing limit of ninety calendar days which applies only to regular sessions held in even-numbered years and the existing provision allowing extension of such sessions beyond ninety calendar days by a vote of two-thirds of the members of each house. This amendment would permit the legislature to extend the regular session beyond the eighty-eighth calendar day by the vote of a majority vote of all members of each house. Such extension could not be for more than two calendar days.

“A vote for this proposition would limit the duration of each regular session of the Kansas legislature to eighty-eight calendar days. Each such session could be extended by the legislature for up to two calendar days by a majority vote of all members of each house.

“A vote against this proposition would continue in effect the current provision which limits only the regular sessions held in even-numbered years to ninety calendar days and the existing provision allowing extension of such sessions beyond ninety calendar days by a vote of two-thirds of the members of each house.”

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. 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 were referred to Committees as indicated:

Assessment and Taxation: **SB 170.**

Elections and Local Government: **SB 172.**

Financial Institutions & Insurance: **SB 173, SB 174.**

Judiciary: **SB 171.**

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **Senate Substitute for HB 2026**, requests a conference and has appointed Representatives Neufeld, Shultz and Nichols as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 6** and has appointed Representatives Neufeld, Shultz and Shriver as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **S Sub for HB 2026.**

The President appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Tyson, Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1810—

A RESOLUTION in memory of James L. Allen.

WHEREAS, James L. Allen, 68, a former member of the Kansas House of Representatives and Kansas Senate, died Monday, January 20, 2003, at a Topeka hospital; and

WHEREAS, James L. Allen was born March 22, 1934, in Ottawa, to Leonard and Margaret Kesting Allen and spent his early life in Ottawa. He graduated from Ottawa High School in 1952 and attended Kansas State University. Subsequently, he was a dairy farmer near Ottawa for many years; and

WHEREAS, James L. Allen was elected to the Kansas House of Representatives in 1979 and to the Kansas Senate in 1981. He served 11 years before he became a lobbyist and established the firm Jim Allen Associates in Topeka; and

WHEREAS, In the Senate he served as the chairperson of the Committee on Agriculture, as vice-chairperson for the Committee on Local Government, and as a member of the Committee on Administrative Rules and Regulations, Education, Legislative Educational Planning, Organization, Calendar and Rules and Ways and Means; and

WHEREAS, James L. Allen was a member of the First Baptist Church in Ottawa for many years and had served as a trustee. He was a member of the Ottawa Rotary Club, having maintained perfect attendance at meetings for more than 35 years. He formerly was active in Boy Scouts of America, and had been a 4-H Club leader and a school board member. He coached a baseball team for several years and was a long time fan of the New York Yankees baseball team.

WHEREAS, James L. Allen married Carol Schaben on December 26, 1954; she survives. Other survivors include three sons; Roger Allen, Chicago; Michael "Mickey" Allen, Ottawa; and Kevin Allen, Houston; a daughter, Elaine Morris, Ottawa; and six grandchildren: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor the public service James L. Allen gave to his community and the state of Kansas and extend our deepest sympathy to the family of James L. Allen; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Mrs. James L. Allen, 2407 Osborne Terrace, Ottawa, KS 66067.

On emergency motion of Senator Tyson **SR 1810** was adopted unanimously.

President Kerr and members of the Senate acknowledged Senator Allen's family and offered their condolences and shared memories. Those present were his wife, Carol; son, Michael Allen; granddaughters, Mikala and Page Allen; daughter, Elaine Morris and son-in-law, Robert Morris, and granddaughters, Carol Ann and Amy Morris. Accompanying the family were former Senator Don Montgomery and wife, Nancy.

MESSAGE FROM THE HOUSE

Announcing adoption of **HCR 5006**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5006, a concurrent resolution in memory of James L. Allen, was introduced and read by title.

On emergency motion of Senator Oleen, **HCR 5006** was adopted by voice vote.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 37**, **SB 48** be passed.

Also **SB 29** be amended on page 45, in line 28, by striking "\$50,000" and inserting "\$25,000"; and the bill be passed as amended.

SB 35 be amended on page 1, in line 15, following "felony", by inserting "or any felony violation of the controlled substance act"; by striking all in lines 16 through 20; in line 21, by striking "(c)" and inserting "(b)"; also in line 21, by striking ": (1) "Body" and inserting "; "body"; in line 23, by striking "; and"; by striking all in line 24; in line 25, by striking all before the period;

And by relettering subsections accordingly;

Also on page 1, in line 26, by striking "5" and inserting "7"; by striking all in lines 33 through 43;

On page 2, by striking all in lines 1 through 17; in line 18, by striking all before the period and inserting "whose conviction has been expunged pursuant to K.S.A. 21-4619, and amendments thereto"; in line 19, by striking "(3)" and inserting "(2)"; and the bill be passed as amended.

SB 36 be amended on page 1, in line 16, after "shall" by inserting: "be an independent agency in the judicial branch of government, shall submit its budget separately and may adopt its own pay plan and personnel rules. The judicial council shall"; in line 21, by striking "and" and inserting a comma; in line 22, before the period, by inserting: "and the ranking minority member of the judiciary committee of the senate";

On page 2, in line 33, by striking "criminal";

On page 3, in line 23, by striking "shall" and inserting "may"; and the bill be passed as amended.

SB 38 be amended on page 2, in line 4, by striking "\$2" and inserting "\$1"; in line 5, by striking "\$2" and inserting "\$1";

On page 5, in line 34, by striking "\$2" and inserting "\$1"; in line 37, by striking "\$2" and inserting "\$1";

On page 9, in line 31, by striking "\$2" and inserting "\$1";

On page 11, in line 9, by striking "\$2" and inserting "\$1";

On page 12, in line 22, by striking "\$2" and inserting "\$1";

On page 13, in line 32, by striking "\$2" and inserting "\$1"; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

SB 34 reported correctly enrolled, properly signed and presented to the Governor on February 10, 2003.

SR 1807, **SR 1808**, **SR 1809** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 10, 2003.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Tuesday, February 11, 2003.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

