

Journal of the Senate

FORTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 18, 2003—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with thirty-nine senators present.
Senator Donovan was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

When Senators explain their vote,
They may ask that their remarks
Be spread upon the journal
Which could ignite a spark.

For sometimes other Senators,
Impressed with what was said,
Ask to join in those remarks
Which were on the journal spread.

It occurs to me, O God,
That YOUR remarks eternal
Have for centuries been spread
Upon Your sacred Journal.

It also then occurs to me
It should ignite in us a spark,
And we should all stand up and say
“Lord, we join in Your remarks.”

I pray in the Name of Jesus,

Amen

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

SB 263, An act making and concerning appropriations for the fiscal years ending June 30, 2003, June 30, 2004, and June 30, 2005, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2-223 and K.S.A. 2002 Supp. 55-193, 75-2319, 76-775, 79-2959, as amended by section 21 of 2003 House Bill No. 2026, 79-2964, as amended by section 22 of 2003 House Bill No. 2026, 79-3425i, as amended by section 23 of 2003 House Bill No. 2026, 79-34,147, 79-4804 and 82a-953a and repealing the existing sections, by Committee on Ways and Means.

SB 264, An act concerning the attorney general; duties in actions where state a party or interested; amending K.S.A. 75-702 and repealing the existing section, by Committee on Ways and Means.

SB 265, An act concerning state governmental ethics; concerning contracts involving state officers and employees; exemptions; amending K.S.A. 46-233 and repealing the existing section, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1612—

By Committee on Education

A PROPOSITION to amend sections 3 and 7 of article 6 of the constitution of the state of Kansas, relating to the state board of education.

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: Sections 3 and 7 of article 6 of the constitution of the state of Kansas are hereby amended to read as follows:

“**§ 3. Members of state board of education and state board of regents.** (a)

(1) There shall be ~~ten~~ 13 members of the state board of education with overlapping terms as the legislature may prescribe. *Such members shall have such qualifications as the legislature may prescribe.*

(2) *Three members of the state board of education shall be appointed by the governor, subject to confirmation by the senate.*

(3) *Ten members of the state board of education shall be elected.* The legislature shall make provision for ten member districts, each comprised of four contiguous senatorial districts. The electors of each member district shall elect one person residing in the district as a member of the board.

(4) The legislature shall prescribe the manner in which vacancies occurring on the board shall be filled.

(b) The state board of regents shall have nine members with overlapping terms as the legislature may prescribe. Members shall be appointed by the governor, subject to confirmation by the senate. One member shall be appointed from each congressional district with the remaining members appointed at large, however, no two members shall reside in the same county at the time of their appointment. Vacancies occurring on the board shall be filled by appointment by the governor as provided by law.

(c) Subsequent redistricting shall not disqualify any member of either board from service for the remainder of ~~his~~ *the* term. Any member of either board may be removed from office for cause as may be provided by law.

§ 7. Savings clause. ~~(a)~~ All laws in force at the time of the ~~adoption~~ *approval* of this amendment and consistent therewith shall remain in full force and effect until amended or repealed by the legislature. All laws inconsistent with this amendment, unless sooner repealed or amended to conform with this amendment, shall remain in full force and effect until ~~July 1, 1969~~ *July 1, 2005*.

~~(b) Notwithstanding any other provision of the constitution to the contrary, no state superintendent of public instruction or county superintendent of public instruction shall be elected after January 1, 1967.~~

~~(c) The state perpetual school fund or any part thereof may be managed and invested as provided by law or all or any part thereof may be appropriated, both as to principal and income, to the support of the public schools supervised by the state board of education.”~~

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

“Explanatory statement. The constitution of this state provides for a ten-member state board of education. Members are selected by election from prescribed member districts. The constitution further provides for selection of members of the state board of regents by gubernatorial appointment.”

“A vote for this proposition would provide for a thirteen-member state board of education. A vote for this proposition would provide for the election of 10 of the

members of the board and the appointment, by the governor, of three members of the board. Members appointed by the governor would be subject to confirmation by the senate.”

“A vote against this proposition would continue in effect the requirement of a ten-member state board of education and that the members are selected by election.”

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 the year 2004.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2005**.

Federal and State Affairs: **HB 2101**, **HB 2310**.

Ways and Means: **SB 262**.

To Be Referred: **SB 261**.

CHANGE OF REFERENCE

The President withdrew **SB 94** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Assessment and Taxation.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 26**, **SB 133**.

The House adopts the conference committee report on **SB 4**.

The House adopts the conference committee report on **SB 175**.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 181** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 181,” as follows:

“Substitute for SENATE BILL No. 181

By Committee on Commerce

“AN ACT concerning workers compensation; relating to work disability; amending K.S.A. 44-501 and 44-510e and repealing the existing sections; also repealing K.S.A. 44-510a.”; and the substitute bill be passed.

Committee on **Elections and Local Government** recommends **HB 2003**, as amended by House Committee, be amended on page 2, in line 9, by striking “20%” and inserting “10%”; and the bill be passed as amended.

Also **HB 2201**, as amended by House Committee, be amended on page 1, in line 17, after “organized” by inserting “fire district or”; in line 28, after “organized” by inserting “fire district or”; and the bill be passed as amended.

Committee on Federal and State Affairs begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Rank of Major General in the Kansas Army National Guard: K.S.A. 48-208

James R. Mason, serves at the pleasure of the Governor

Also **SR 1827** be amended on page 1, in line 37, by striking “article of”; in line 43, by striking “article of”; and the resolution be adopted as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2071**, as amended by House Committee, be amended on page 10, preceding line 1, by inserting the following:

“Sec. 3. K.S.A. 2002 Supp. 40-2258 is hereby amended to read as follows: 40-2258. (a) An accident and sickness insurer which offers coverage through a group policy providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209 and amendments thereto which includes mental health benefits shall be subject to the following requirements:

(1) If the policy does not include an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits, the policy may not impose any aggregate lifetime limit on mental health benefits;

(2) if the policy includes an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits the plan shall either: (A) Apply the applicable lifetime limit both to the hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguished in the application of such limit between such hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit on hospital, medical and surgical expense benefits;

(3) if the policy does not include an annual limit on substantially all hospital, medical and surgical expense benefits, the plan or coverage may not impose any annual limit on mental health benefits; and

(4) if the policy includes an annual limit on substantially all hospital, medical and surgical expense benefits the policy shall either: (A) Apply the applicable annual limit both to hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any annual limit on mental health benefits that is less than the applicable annual limit.

(b) If the group policy providing hospital, medical or surgical expense benefits is not otherwise covered by subsection (a) and either does not apply a lifetime or annual benefit or applies different lifetime or annual benefits to different categories of hospital, medical and surgical expense benefits, the commissioner may adopt rules and regulations under which subsections (a)(2) and (a)(4) are applied to such policies with respect to mental health benefits by substituting for the applicable lifetime or annual limits an average limit that is computed taking into account the weighted average of the lifetime or annual limits applicable to such categories.

(c) Nothing in this section shall be construed as either:

(1) Requiring an accident and sickness policy to offer mental health benefits except as otherwise required by K.S.A. 40-2,105 and amendments thereto; or

(2) affecting any terms and conditions of a policy which does include mental health benefits including provisions regarding cost sharing, limits on the number of visits or days of coverage, requirements relating to medical necessity, requirements relating to the amount, duration or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a).

(d) This section shall not apply to any group accident and health insurance policy which is sold to a small employer as defined in K.S.A. 40-2209 and amendments thereto.

(e) This section shall not apply with respect to a group policy providing hospital, medical or surgical expense benefits if the application of this section will result in an increase in the cost under the plan of at least 1%.

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent two or more benefit package options under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) "Aggregate lifetime limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

(2) "annual limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the policy with respect to an eligible employee, member or dependent;

(3) "hospital, medical or surgical expense benefits" means benefits with respect to hospital, medical or surgical services, as defined under the terms of the policy, but does not include mental health benefits;

(4) “mental health benefits” means benefits with respect to mental health services, as defined under the terms of the policy, but does not include benefits with respect to treatment of substance abuse or chemical dependency.

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998. This section shall not apply to benefits for services furnished on or after December 31, ~~2002~~ 2003.

(i) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.”;

And by renumbering sections accordingly;

Also on page 10, in line 1, after “Supp.”, by inserting “40-2258 and”;

On page 1, in the title, in line 12, after “Supp.”, by inserting “40-2258 and”; and the bill be passed as amended.

Also **HB 2233**, as amended by House Committee, be amended on page 1, in line 29, by striking all after “issue”; in line 30, by striking “sured”; also in line 30, before the period, by inserting “to each person entitled to such card under the health benefit plan”; in line 41, after “cardholder” by inserting “or”; also in line 41, by striking “or”;

On page 2, in line 2, by striking “insured” and inserting “person entitled to such card under the health benefit plan”; in line 3, by striking “the insured’s” and inserting “such person’s”; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2135** be amended by striking lines 26 through 37 and inserting a new section as follows:

“New Sec. 2. From the junction of United States highway 36 with K-99, south on K-99 highway to the junction of K-99 and interstate highway 70, is hereby designated as “The Road to Oz.” The secretary of transportation shall place signs along the highway right-of-way at proper intervals to indicate that the highway is “The Road to Oz,” except that such signs shall not be placed until the secretary has received sufficient moneys from gifts and donations to reimburse the secretary for the cost of placing such signs. The secretary of transportation may accept and administer gifts and donations to aid in obtaining and installing suitable signs.”;

In line 38, by striking “68-141a.”;

In the title, in line 9 following the second semicolon by inserting “designating part of K-99 highway as “The Road to Oz.””; in line 10, by striking “and 68-141a”; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2131**, as amended by House Committee, be amended on page 1, in line 32, by striking “prospective buyers, upon request or, at the”; in line 33, by striking “latest, during contract negotiations” and inserting “the buyer or a prospective buyer, upon request or prior to closing”; in line 40, by striking “or receives” and inserting the following: “

_____2. Has received”;

On page 2, in line 1, after “(RESNET)” by inserting a period; in line 2, by striking “2.” and inserting “3.”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **HB 2182**, **HB 2343** be passed.

Also Committee on **Ways and Means** recommends **SB 239** be amended on page 1, in line 15 by striking all after “1.”; by striking all in lines 16 through 43;

On page 2, by striking all in lines 1 through 20; in line 21, by striking “Sec 4.”;

On page 3, by striking all in lines 18 through 43;

On page 4, by striking all in lines 1 through 43;

On page 5, by striking all in lines 1 through 4; in line 5, by striking “6” and inserting “2”; in line 8, by striking “\$2” and inserting “\$1”; in line 18, by striking “7” and inserting “3”; also in line 18, by striking “45-107, 53-104, 75-436.”; also in line 18, by striking “and 77-”; in line 19, by striking “430 are” and inserting “is”; in line 20, by striking “8” and inserting “4”;

On page 1, in the title, in line 11, by striking “45-107, 53-104, 75-436,” also in line 11, by striking “and 77-430”; in line 12, by striking “sections” and inserting “section”; and the bill be passed as amended.

HB 2121 be amended following line 13, by inserting the following;

“Section 1. K.S.A. 21-3836 is hereby amended to read as follows: 21-3836. (a) Any pretrial release of any criminal defendant, whether on bail or under another form of recognizance, shall be considered as a matter of law to include a condition that the defendant will not commit, cause to be committed or knowingly permit to be committed, on the defendant’s behalf, any violation of this act. Willful violation of that condition is subject to the sanction provided by subsection (c) of K.S.A. 21-3835, *and amendments thereto*, whether or not the defendant was the subject of an order under K.S.A. 21-3834, *and amendments thereto*.”

(b) Any receipt for any bail or bond given by any court, or by any surety or bondsman and any written promise to appear on one’s own recognizance shall contain notice of the provisions of subsection (a) in a conspicuous location.

(c) *Any pretrial release of any criminal defendant whether on bail or under another form of recognizance who requests and is entitled to the assistance of counsel under the provisions of K.S.A. 22-4503, and amendments thereto, shall be considered as a matter of law to include a condition that the defendant shall pay the application fee prescribed by K.S.A. 2002 Supp. 22-4529, and amendments thereto, and the failure to pay such fee shall constitute a violation of this act. Willful violation of such condition is subject to the sanction provided by subsection (c) of K.S.A. 21-3835, and amendments thereto, whether or not the defendant was the subject of an order under K.S.A. 21-3834, and amendments thereto.*”;

Also on page 1, in line 14, by striking “Section 1.” and inserting “Sec. 2.”; and by renumbering the remaining sections accordingly;

In line 18, by striking “\$50” and inserting “\$100”; in line 30, before “2002” by inserting “21-3836 and K.S.A.”; also in line 30, by striking “is” and inserting “are”; in line 32, by striking “statute book” and inserting “Kansas register”;

In the title, in line 10, following the second semicolon, by inserting “conditions of bond.”; also in line 10, following “K.S.A.” by inserting “21-3836 and K.S.A.”; in line 11, by striking “section” and inserting “sections”; 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 Umbarger in the chair.

On motion of Senator Umbarger the following report was adopted:

Recommended **SB 250, SB 251; HB 2221** be passed.

SB 237; HB 2018; Sub HB 2064; HB 2158, HB 2169, HB 2207 be amended by adoption of the committee amendments, and the bills be passed as amended.

SB 195 be amended by adoption of the committee amendments.

Senator Haley moved to amend the bill, on page 1, line 27, by inserting or same racial origin after “party.”

The amendment was rejected, and **SB 195** be passed as amended.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Wednesday, March 19, 2003.

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

PAT SAVILLE, *Secretary of the Senate.*

