

# Journal of the Senate

SIXTY-THIRD DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, May 29, 2003—10:00 a.m.

As provided by **SCR 1614**, the Sine Die Session of the regular 2003 Kansas Senate was called to order by President Dave Kerr.

President Kerr introduced as guest chaplain, Senator Jim Barnett, who delivered the invocation:

May is a beautiful month in Kansas and we thank you, Lord.  
The trees are lush and flowers are in bloom.  
Young people don cap and gown,  
and the citizens are safe with the Legislature out of town.

Of course, Lord, I don't really mean that. Thanks to great leadership  
and great colleagues, great researchers and revisors,  
great staffers and advocates, we did our best.  
For what is unfinished, we'll be back next year to do the rest.

Thank you, Lord, for all your guidance and direction.  
Keep everyone safe through the summer and fall ahead.  
And for now, help us put this session to bed.

Amen

## REPORT ON ENGROSSED BILLS

**SB 281** reported correctly re-engrossed May 7, 2003.

**SB 285** reported correctly engrossed May 8, 2003.

**SB 265** correctly re-engrossed May 8, 2003.

**SB 261** reported correctly engrossed May 9, 2003.

## REPORT ON ENROLLED BILLS

**H Sub SB 27, SB 109, SB 261, H Sub SB 263, SB 265, H Sub SB 268, SB 281, SB 284** reported correctly enrolled, properly signed and presented to the Governor on May 12, 2003.

**SB 285** reported correctly enrolled, properly signed and presented to the Governor on May 13, 2003.

**SCR 1614** reported correctly enrolled, properly signed and presented to the Secretary of State on May 13, 2003.

**SR 1873** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 13, 2003.

## MESSAGE FROM THE GOVERNOR

**SB 195, SB 239** approved on May 15, 2003.

**SB 109, SB 261; H Sub for SB 263; SB 265** approved on May 19, 2003.

**H Sub for SB 27; SB 281, SB 285** approved on May 21, 2003.

**H Sub for SB 268; SB 284** approved on May 22, 2003.

May 12, 2003

*Message to the Senate of the State of Kansas:*

Enclosed herewith is Executive Order No. 2003-10 for your information.

KATHLEEN SEBELIUS  
*Governor*

The President announced Executive Order No. 2003-10, suspending the provisions of the regulatory statutes, rules and/or regulations prescribing the requirement for fee assessments to obtain duplicate driver's licenses, duplicate vehicle titles and registrations, other duplicate vehicle documentation and duplicate marriage and birth certificates for victims of the May 8, 2003 natural disaster, as provided by K.S.A. 48-925 (b) and (c)(1), is on file in the office of the Secretary of the Senate and is available for review at any time.

#### MESSAGE FROM THE HOUSE

Announcing adoption of **SCR 1614**.

The House adopts the conference committee report on **HB 2014**.

The House adopts the conference committee report on **Senate Substitute for HB 2444**.

The House concurs in Senate amendments to **HB 2416** and requests the Senate to return the bill.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1874—

A RESOLUTION congratulating and commending Fort Riley upon 150 years of continuous military service.

WHEREAS, Fort Riley was established in 1853 at the junction of the Smoky Hill and Republican Rivers adjacent to present day Junction City. It was named in honor of Major General Bennett C. Riley who led the first military escort along the Santa Fe Trail. The fort was established on a broad plain that overlooked the river valleys; and

WHEREAS, During the early years of its existence the fort provided escorts for mail carriers and travelers crossing the plains and utilizing the Sante Fe and Oregon Trails. During the Civil War regular army units participated in the fighting while militia units provided some protection for travelers going west; and

WHEREAS, After the Civil War the fort provided protection for construction of railroad lines across the state and for settlers coming to homestead the land. Of note, the 7th Cavalry Regiment was mustered-in at Fort Riley in 1866 with Brevet Major General George Custer as its commander. As the frontier disappeared the fort hosted a school of light artillery. It was also used for encampments of state militia units, and the famed Buffalo Soldiers of the 9th and 10th Cavalry Regiments were stationed at Fort Riley. At the start of the 20th century the Army's Cavalry School was established at Fort Riley, ushering in an era of the finest horsemanship in the world with associated horse shows, hunts and polo matches and the quality of life known as "the life of Riley"; and

WHEREAS, During World Wars I and II the fort functioned as a full divisional training facility. During the Korean War the fort was home to the 10th and 37th Infantry Divisions and later was home to the 1st Infantry Division, the 9th Infantry Division and the 24th Infantry Division. Today, soldiers from Fort Riley continue to be deployed to areas throughout the world: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Fort Riley upon 150 years of continuous military service and to the soldiers that have served there; and

*Be it further resolved:* That the Secretary of the Senate be directed to send three enrolled copies of this resolution to Brigadier General Dennis Hardy, Commanding General, 24 Infantry Division and Fort Riley, 500 Huebner Road, Ft. Riley, KS 66442 and two copies to Senator Oleen.

On emergency motion of Senator Oleen **SR 1874** was adopted unanimously.

Representing Fort Riley was Lt. Col. David Boslego and accompanying him was Mike Watson, Public Affairs Office, Fort Riley.

Senators Oleen and Barnett introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1875—

A RESOLUTION congratulating and commending Ed Augustine.

WHEREAS, Ed Augustine, of Junction City, was inducted into the International Hunter Education Association Hall of Fame in Vancouver, British Columbia, on April 28, 2003; and

WHEREAS, Mr. Augustine was nominated for this honor because of his 40 years of volunteer work in the state having been involved in the training and certification of more than 25,000 students. He was a key person in the effort to make hunter education mandatory in Kansas in 1972. Subsequently, he introduced the Explanation — Demonstration — Observation — Congratulations training method which he presented at workshops and was endorsed by the Kansas Department of Wildlife and Parks. He established the first Kansas in-school hunter education program in the Junction City school system; and

WHEREAS, Mr. Augustine developed the first safety trail in Kansas and pioneered teaching shotgun live fire. He has provided training in other states and from 1997 to 2000 represented the western United States on the International Hunter Education Association board of directors. He established instructor programs, and as a National Rifle Association training counselor gave shooting skills training to hundreds of hunter education instructors. He was a pioneer in using laser shot computer simulation for hunter educator training in Kansas, a program which in 2002 alone was used by more than 23,000 persons; and

WHEREAS, Mr. Augustine has served on a myriad of shooting organizations and has received many awards including Sertoma Service to Mankind, Kansas Wildlife Federation Outdoor Instructor of the Year, Sprint Community Service Award, Friends of Education state award, Kansas State Rifle Association Outstanding Person in Shooting Sports, Rocky Mountain Elk Foundation Conservation Educator of the Year and Kansas Wildscape Instructor of the Year; Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Ed Augustine upon being named to the International Hunter Education Hall of Fame and for his efforts to make hunting a safer activity in Kansas; and

*Be it further resolved:* That the Secretary of the Senate be directed to send three enrolled copies of this resolution to Mr. Ed Augustine, 1513 Hale Drive, Junction City, KS 66441 and a copy to Wayne Doyle, Kansas Department of Wildlife and Parks, 512 SE 25th Avenue, Pratt, KS 67124.

On emergency motion of Senator Oleen **SR 1875** was adopted unanimously.

Senator Kerr and members of the Senate recognized and honored Ed Augustine. Also present was Christopher Tymeson, Legal Counsel, Kansas Department of Wildlife and Parks.

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

SENATE RESOLUTION No. 1876—

A RESOLUTION congratulating and commending Senator Ulysess Lee “Rip” Gooch.

WHEREAS, Senator Gooch of Wichita, one of our most respected and beloved senators and the oldest member of the Kansas Legislature, will be 80 years old September 13. Senator Gooch was elected to the Kansas Senate in 1993. His committee assignments have included service as ranking minority member of the Federal and State Affairs and the Transportation Committees plus membership on the Elections and Local Government, Administrative Rules and Regulations, Local Government, Commerce, Economic Development and Governmental Organization Committees. He also has served on the Joint Committee on Rules and Regulations and the Joint Committee on Economic Development; and

WHEREAS, Senator Gooch was previously involved in public service by serving on the Wichita City Council from 1989 to 1993 including two years as Vice-Mayor; and

WHEREAS, Senator Gooch has been involved with the aviation industry for 55 years commencing with three years in the United States Armed Forces. He has more than 18,000 flight hours. For 17 years he operated his own aviation company, a fixed-base operation on Rawdon Field, now a part of Raytheon's Wichita facility. His business, Aero Services, offered flying lessons, short term plane rental, aircraft sales and service, tie-down and hangar rental and contracted with the federal government to provide military airlift services and helicopter roto-hub overhauls. For 20 additional years he continued to freelance as a flight instructor, flight examiner and charter pilot. Senator Gooch is a member of the Kansas Aviation Hall of Fame, and in 2001 he was one of the initial inductees into the Black Aviation Hall of Fame. Additionally, he has a lengthy association with the Tuskegee Airmen organization. He served four years as a consultant for Raytheon Aircraft Manufacturing; and

WHEREAS, Senator Gooch was instrumental in the formation of the International Black Aerospace Council, an umbrella organization of five major black aviation organizations. He has served on the Aviation Advisory Committee of the Kansas Department of Transportation, the Air Museum Task Force and the Wichita Airport Authority, and he is a member of the Kansas Museum Aviation Board; and

WHEREAS, Senator Gooch was born in Ripley, Tennessee, and was graduated from Ripley's Lauderdale High School. He also attended Tennessee A and I University. Over the forthcoming Labor Day weekend he will be honored by his hometown and namesake by being awarded the City's Outstanding Citizen Award and being given the Key to the City; and

WHEREAS, Senator Gooch was a loving and devoted husband to his wife, Dora Augusta Gooch, for 48 years. She is now deceased, as is his son, Kerry, who was his close friend and flying mate. He has two daughters, Bonita and Camellia, a grandson, Kerry, Jr. and two granddaughters, Dorian and Lauren: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Senator Gooch for his devotion to public service, his success in the aviation industry and his zeal for living as he looks forward to his 80th birthday; and

*Be it further resolved:* That the Secretary of the Senate be directed to give an enrolled copy of this resolution to Senator Gooch.

On emergency motion of Senator Haley **SR 1876** was adopted unanimously.

#### Remarks by Senator Haley

The 2003 Session has offered several distinct opportunities for the Kansas Senate to recognize, by Senate Resolution, and to review exemplary accomplishments of some extraordinary Americans. And we have responded, Mr. President...

Today, Sine Die, is our final day for this Session and fittingly perhaps, an opportunity to reflect on our final Resolution of this year which all but one of our membership has signed on to sponsor....

I am personally elevated this day to cap all of my remarks of this year to commend and to congratulate, at almost 80 years, the eldest member of the Kansas Legislature, my seat mate and my mentor and my friend, our own Senator Ulysses Lee "Rip" Gooch.

It is a gift from God then to me, a Senator from Wyandotte County, to be able to turn to this man today, a Senator from Sedgwick County, and to tell him thank you for your tenacity and for such patience; to stammer my deepest respect for your cunning and for your tolerance and to tell you, sir, that I love you for you are symbolic of our very best and I take vicarious pride in that awareness. You have endured to be "a great star" by personality and by perseverance; by articulation and by action. May your Eightieth year be the most enjoyable of your life.

Senators Hensley, Oleen and Tyson also rose to congratulate and pay tribute to Senator Gooch by sharing past experiences.

President Kerr and members of the Senate gave Senator Gooch a standing ovation.

**MESSAGE FROM THE HOUSE**

Announcing the House herewith transmits the veto message from the Governor on **Senate Substitute for HB 2444**, An act making and concerning appropriations for the fiscal years ending June 30, 2003, June 30, 2004, June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008, June 30, 2009, and June 30, 2010; authorizing certain transfers and fees, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the foregoing; amending K.S.A. 2002 Supp. 79-3425c and 82a-953a, as amended by section 131 of 2003 Senate Bill No. 6, and repealing the existing sections, by Committee on Ways and Means,

which was received on May 23, 2003 and read before the House on May 29, 2003.

Message to the House of Representatives of the State of Kansas on Senate Substitute for HB 2444:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Substitute for House Bill No. 2444 with my signature approving the bill, except for the items enumerated below.

**Sentencing Commission****Required Budget Recommendation for SB 123**

Section 16(c) has been line-item vetoed in its entirety.

To implement alternative penalties for drug possession contained in 2003 SB 123, I stated to the Legislature that my staff, over the next year, would examine drug rehabilitation money throughout the state budget to determine whether any of these funds could be utilized for this purpose. Section 16(c) would require me to prepare and submit a recommendation for additional funding for SB 123 in the amount of \$852,598. This section interferes with the practice of the Governor making budget recommendations and the Legislature approving a budget. By attempting to dictate what I can recommend this proviso violates the principle of separation of powers.

**Ombudsman for Corrections****Operating Expenditures**

Section 21 has been line-item vetoed in its entirety.

I veto the budget approved for the Ombudsman for Corrections for FY 2004. In my original budget recommendations I did not include funding for continuation of the Ombudsman. This program, along with many others, certainly provides a worthy service. However, the level of financial resources currently available to the state has necessitated difficult budget decisions based on our best judgment of priorities. Accordingly, I made the decision not to recommend continuation of this office. Committing limited funds to such a low priority program is not a prudent use of the state's financial resources.

**Department of Administration****Payroll Advices**

Section 36(e) has been line-item vetoed in its entirety.

Over the last several years, the State of Kansas has grown in technological abilities. The Department of Administration has developed a more efficient, paperless method of delivering pay advice information to state employees in FY 2004. Paycheck and leave information will be available online through the Employee Self Service Center on the Monday prior to a Friday payday, which is several days earlier than the current mailing process. Additionally, the Department of Administration, along with many other state agencies, has experienced significant budget reductions and has had to take extraordinary measures to realize efficiencies and cut costs. This proviso would require the Department to continue mailing an advice to anyone who makes a request. Initiating a special process for those requesting a mailed pay advice would require automation changes. Such a provision, if allowed to take

effect, would clearly undermine the efficiency and cost effectiveness of the new policy. I therefore find it necessary to veto this proviso.

#### **Fee for KANS-A-N Directory**

Section 36(f) has been line-item vetoed in its entirety.

Another initiative by the Department of Administration, which takes advantage of technology and cuts costs, has been to eliminate printing of the KANS-A-N Directory and make it accessible through the Internet. The provision in HB 2444 presumes that the directory would continue to be printed and authorizes a fee to be charged to cover the cost. It is rapidly becoming standard practice to make information of this kind available through the most modern means of telecommunications not only because it is less expensive, but because it can be updated more efficiently as well as timely. Not to take advantage of the technology available to us is wasteful of the state's resources. This provision is an obstacle to progress and ignores current budget constraints when paying for a hard copy directory that is out of date shortly after its distribution. For these reasons, I veto this proviso.

#### **Department on Aging**

##### **HCBS/FE Waiver Waiting List Requirement**

Section 73(f) has been line-item vetoed in its entirety.

This section requires the Department on Aging to expend \$2,925,294 from the State General Fund to reduce the waiting list for the HCBS/FE Waiver Program in FY 2004. This amount is equal to the increase in program funding from FY 2003 to FY 2004. Additional appropriations made for the HCBS/DD Waiver Program and the HCBS/PD Waiver Program in the Department of Social and Rehabilitation Services did not include similar requirements. Because this requirement would unreasonably restrict the agency's flexibility in its management of this program, I find it necessary to veto this section.

KATHLEEN SEBELIUS, *Governor*

Dated: May 23, 2003

Members were given the opportunity to reconsider the line item vetoes. There being no motion to reconsider the line item vetoes to **Senate Substitute for HB 2444**, the Speaker ruled the line item vetoes sustained.

There being no further business to be considered Senator Oleen moved, as provided in **SCR 1614**, the Senate adjourn Sine Die. The motion prevailed.

President Kerr thereupon announced: "By the virtue of the authority vested in me as President of the Senate, I now declare the 2003 session of the Kansas Senate adjourned Sine Die."

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

PAT SAVILLE, *Secretary of the Senate*.

