

# Journal of the Senate

TWENTY-FIFTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Monday, February 16, 2004—2:30 p.m.

The Senate was called to order by Vice President John Vratil.  
The roll was called with thirty-eight senators present.  
Senators Allen and Oleen were excused.  
Vice President Vratil introduced as guest chaplain, Keith Sanderson, Lay Minister and Manager of Radio Station KHYM, Meade, KS, who delivered the invocation:

Father...

I humbly come to you today, to ask your blessing on this assembly.

Father...as these honorable men and women set their hearts and minds to tend to the business of the great state of Kansas, I speak Your will over their endeavors, and Your peace over their constituents. Your word says that we can come to you and ask for wisdom, and indeed, ask for Grace, in our time of need. And this is a time of need, not only in our state, but in our nation as well. Afford us the opportunity today, Lord, to set a pace of upward motion, and forward movement, in all that we do.

Father...I ask that you grant this Senate the ability to rightly choose...that which is upright to this state they govern...that which is honestly representative of the people who elected them...and that which is wholly righteous in your eyes.

Father...Help each of us in this room to recognize that all wisdom and Grace comes from you...and that there is no wisdom apart from you.

And Father...thank you that we live in a country where I can freely, openly, and unashamedly, bring this petition to You in the name of, and by the shed Blood of, Your Son, my Lord and Savior, the Redeemer of all Mankind...Jesus The Christ.

Amen

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **SB 524.**

Commerce: **SB 525.**

## COMMUNICATIONS FROM STATE OFFICERS

### KANSAS STATE FIRE MARSHAL

Joseph Odle, State Fire Marshal, submitted the 2003 Annual Report.

The Vice President announced the above report 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 passage of **HB 2530, HB 2553, HB 2555, HB 2556, HB 2580, HB 2612, HB 2641.**

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2530, HB 2553, HB 2555, HB 2556, HB 2580, HB 2612, HB 2641** were there-upon introduced and read by title.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

SENATE RESOLUTION No. 1815—

A RESOLUTION congratulating and commending the Baxter Springs Volunteer Fire Department.

WHEREAS, The Baxter Springs Volunteer Fire Department celebrated 100 years of devoted service to the community on May 23, 2003; and

WHEREAS, The organization was established in 1903 with A. R. Kane, John W. Cook, Ben Patton and Bill Jones providing a bucket brigade. A chemical fire engine was purchased in 1912 and its first motorized vehicle was purchased in 1925 -- which machine is now on display at the Baxter Springs Heritage Center and Museum. The department moved to its present location at 11th and Park in 1927; and

WHEREAS, The Baxter Springs Volunteer Fire Department has 27 members, including the fire chief, Stacy Ellsworth; deputy chief, Art Mallory; and Assistant Chief, Les Page. Paul Buckner has been with the department for 57 years, Wayne Cook for 32 years, Les Page for 31 years, Art Mallory for 28 years and Robin Wene for 28 years. Wayne Cook's family has given a total of 206 years of service commencing with his great-grandfather, John W. Cook, who was with the department for 35 years; and

WHEREAS, The department responds to house fires and grass fires, assists with other disasters such as storms, floods and vehicle accidents and even rescues cats in trees. Obviously, this community has benefited greatly from 100 years of dedicated service by the Baxter Springs Volunteer Fire Department: Now, therefore;

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Baxter Springs Volunteer Fire Department upon completion of 100 years of dedicated service to the Baxter Springs community; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Senator Umbarger and to Stacy Ellsworth, Fire Chief, Baxter Springs Volunteer Fire Department, and to fire department members, Paul Buckner, Wayne Cook, Les Page, Robin Wene and Art Mallory, all at P.O. Box 492, Baxter Springs, KS 66713 plus a copy to Chief Ellsworth for display at the Baxter Springs Historical Museum.

On emergency motion of Senator Umbarger **SR 1815** was adopted unanimously.

Senator Umbarger introduced as guests, Stacy Ellsworth, Fire Chief; Paul Buckner, Wayne Cook, Les Page and Robin Wene.

**REPORTS OF STANDING COMMITTEES**

Committee on **Judiciary** recommends **SB 141** be amended on page 1, in line 25, before "shall" by inserting "and"; in line 26, by striking "securities commissioner" and inserting "director of administrative hearings"; in line 29, by striking "2008" and inserting "2009";

On page 3, in line 12, by striking "2008" and inserting "2009"; in line 15, by striking "75-551" and inserting "77-551"; in line 28, by striking "2008" and inserting "2009"; in line 42, by striking "2008" and inserting "2009";

On page 4, in line 16, by striking "2008" and inserting "2009"; in line 22, by striking "2008" and inserting "2009"; in line 32, by striking "2004" and inserting "2005"; in line 40, by striking "or"; also in line 40, before "a" by inserting ", an authorized representative of the secretary, or at a party's request pursuant to K.S.A. 75-37,121 and amendments thereto,";

On page 5, in line 2, by striking "or"; also in line 2, before "a" by inserting "an authorized representative of the secretary or"; in line 16, by striking "2004" and inserting "2005"; in line 29, by striking "or"; in line 30, before "a" by inserting ", an authorized representative of the secretary, or at a party's request pursuant to K.S.A. 75-37,121 and amendments thereto,"; in line 32, by striking "2007" and inserting "2008"; in line 36, by striking "director"; in line 37, by striking "of vehicles or a";

On page 6, in line 1, by striking “2004” and inserting “2005”;

On page 8, in line 12, by striking “2008” and inserting “2009”; in line 25, by striking “2006” and inserting “2007”; in line 41, by striking “2004” and inserting “2005”;

On page 9, in line 33, by striking “2007” and inserting “2008”;

On page 10, in line 23, by striking “2006” and inserting “2007”;

On page 12, in line 27, by striking “on or after July 1, 1996,”; in line 33, by striking “Com-”; by striking all in lines 34 through 37; in line 38, by striking all before “Any”;

On page 14, in line 6, by striking “2007” and inserting “2008”; in line 18, by striking “2006” and inserting “2007”;

On page 17, in line 7, by striking “2006” and inserting “2007”; in line 27, by striking “2006” and inserting “2007”;

On page 18, in line 28, by striking “2006” and inserting “2007”;

On page 19, in line 2, by striking “2006” and inserting “2007”; in line 34, by striking “2004” and inserting “2005”;

On page 20, in line 12, by striking “2004” and inserting “2005”;

On page 21, in line 3, by striking “2006” and inserting “2007”;

On page 22, in line 25, by striking “2006” and inserting “2007”;

On page 24, in line 4, by striking “2006” and inserting “2007”; in line 23, by striking “2006” and inserting “2007”;

On page 25, in line 14, by striking “2007” and inserting “2008”; in line 23, by striking “2004” and inserting “2005”;

on page 26, in line 4, before “use” by inserting “appoint the executive director or”; in line 6, by striking all after the period; by striking all in lines 7, 8 and 9; in line 10, by striking all before “The”; in line 16, by striking “2006” and inserting “2007”;

On page 29, in line 22, by striking “2006” and inserting “2007”;

On page 31, in line 32, by striking “2006” and inserting “2007”;

On page 33, in line 22, by striking “2006” and inserting “2007”;

On page 35, in line 19, by striking “2004” and inserting “2005”; in line 25, before “presiding” by inserting “or contract with”; in line 30, by striking “(h)” and inserting “(i)”;

in line 33, by striking “(h)” and inserting “(i)”;

On page 36, after line 4, by inserting the following:  
“(d) With respect to hearings before the secretary of agriculture in accordance with the Kansas administrative procedures act, the party may request that the matter, for which a hearing has been scheduled or for which a right to a hearing exists, be heard by a hearing officer from the office of administrative hearings.”;

And by relettering subsections accordingly;

Also on page 36, in line 7, by striking “(h)” and inserting “(i)”;

in line 36, by striking “adjudicative proceedings” and inserting “conducting adjudicative hearings under the Kansas administrative procedures act”; in line 39, by striking “2004” and inserting “2005”; in line 40, before “state” by inserting “department of health and environment,”; in line 43, by striking “the department of agriculture.”;

On page 37, in line 3, by striking “2005” and inserting “2006”; in line 9, by striking all after “1,”; in line 10, by striking “state” and inserting “2007: State”; in line 16, by striking “2007” and inserting “2008”; in line 18, by striking “citizens’ utility rate payor board,”; in line 22, by striking “2008” and inserting “2009”; in line 23, by striking “the above subsections” and inserting “subsections (1), (2), (3) and (4)”;

by striking all in lines 24 through 33;

And by relettering the remaining subsections accordingly;

Also on page 37, in line 34, by striking “2004” and inserting “2005”; also in line 34, by striking all after “in”; in line 35, by striking all before “agencies”; also in line 35, by striking “(h)(1)” and inserting “(i)(1)”;

in line 37, by striking “75-551” and inserting “77-551”;

On page 38, in line 7, by striking “2005” and inserting “2006”; also in line 7, by striking all after “in”; in line 8, by striking all before “agencies”; also in line 8, by striking “(h) (2)” and inserting “(i) (2)”;

in line 10, by striking “75-551” and inserting “77-551”; in line 23, by striking “2006” and inserting “2007”; also in line 23, by striking all after “in”; in line 24, by striking all before “agencies”; also in line 24, by striking “(h) (3)” and inserting “(i) (3)”;

in line 26, by striking “75-551” and inserting “77-551”; in line 39, by striking “2007” and inserting “2008”; also in line 39, after “any” by inserting “full-time”; also in line 39, by

striking all after “in”; in line 40, by striking all before “agencies”; also in line 40, by striking “(h) (4)” and inserting “(i) (4)”; in line 42, by striking “75-551” and inserting “77-551”;

On page 39, in line 12, by striking “2007” and inserting “2008”;

On page 40, in line 9, by striking “2008” and inserting “2009”; in line 40, by striking “2004” and inserting “2005”;

On page 41, in line 4, by striking “2004” and inserting “2005”; also in line 4, by striking “2002” and inserting “2003”; by striking all in lines 39 through 43;

On page 42, by striking all in line 1; in line 2, by striking “2008” and inserting “2009”; also in line 2, by striking “2002” and inserting “2003”; in line 3, by striking “37” and inserting “38”; by striking all in lines 35 through 40; in line 41, by striking “2007” and inserting “2008”;

On page 43, in line 24, by striking “2007” and inserting “2008”; in line 30, by striking “2004” and inserting “2005”; in line 35, by striking “(h)” and inserting “(i)”;

On page 44, in line 11, by striking “2008” and inserting “2009”; in line 12, by striking “41” and inserting “42”; in line 32, by striking “2006” and inserting “2007”;

On page 45, in line 17, by striking “2004” and inserting “2005”;

On page 46, in line 27, by striking “2004” and inserting “2005”;

On page 47, in line 9, by striking “2004” and inserting “2005”;

On page 48, in line 26, by striking “2004” and inserting “2005”;

On page 50, in line 12, by striking “2004” and inserting “2005”; after line 38, by inserting the following:

“Sec. 50. On and after July 1, 2005, K.S.A. 2003 Supp. 82a-1901 is hereby amended to read as follows: 82a-1901. (a) Orders of the chief engineer of the division of water resources of the department of agriculture pursuant to K.S.A. 42-703, 42-722, 42-722a, 82a-708b, 82a-711, 82a-718 and 82a-1038, and amendments thereto, and failure of the chief engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, shall be subject to review in accordance with the provisions of the Kansas administrative procedure act.

Such review shall be conducted by the secretary of agriculture or ~~by an administrative law judge or at the party's request pursuant to K.S.A. 75-37,121 and amendments thereto,~~ a presiding officer from the office of administrative hearings within the department of administration. The secretary of agriculture shall not have the authority otherwise to designate a presiding officer to conduct such review.

(b) The order of the secretary of agriculture or the administrative law judge or presiding officer upon review pursuant to subsection (a) shall be a final order under the Kansas administrative procedure act. Such order shall not be subject to reconsideration pursuant to K.S.A. 77-529 and amendments thereto and shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(c) This act shall not affect any administrative proceeding pending before the chief engineer of the division of water resources of the department of agriculture, the secretary of agriculture or any administrative hearing officer on July 1, 1999, and such matter shall proceed as though no change in the law had been made with regard to such proceeding.

~~(d) The provisions of this section shall take effect on and after July 1, 1999.”;~~

And by renumbering sections accordingly;

Also on page 50, in line 39, by striking “2004” and inserting “2005”; in line 41, by striking “2002” and inserting “2003”; in line 42, by striking “and” and inserting a comma; also in line 42, before “are” by inserting “and 82a-1901”; in line 43, by striking “2006” and inserting “2007”;

On page 51, in line 3, by striking “2007” and inserting “2008”; in line 5, by striking “2008” and inserting “2009”; in line 6, by striking “41” and inserting “42”; also in line 6, by striking “2002” and inserting “2003”; in line 7, by striking “37” and inserting “38”;

On page 1, in the title, in line 15, by striking “41” and inserting “42”; in line 16, by striking “2002” and inserting “2003”; in line 17, by striking “37” and inserting “38”; also in line 17, by striking “and” where it appears for the first time and inserting a comma; also in line 17, after “82a-1503” by inserting “and 82a-1901”; and the bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**SB 325** reported correctly engrossed February 16, 2004.

**REPORT ON ENROLLED BILLS**

**SR 1812, SR 1813, SR 1814** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 13, 2004.

On motion of Senator Donovan the Senate adjourned until 2:30 p.m., Tuesday, February 17, 2004.

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

PAT SAVILLE, *Secretary of the Senate.*

