

Journal of the Senate

TWELFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, January 26, 2005—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
Legislators run for office
With constituents in mind
They want to make a difference
In the lives they leave behind.
They have a lot to offer
They believe with all their heart.
They thought that with your help, O God,
They could play a major part.
But soon they all discover
That change comes very slow,
And the fire that they brought with them
No longer seems to glow.
Help them, Lord, remember
They should not think it strange
That the God Who helped them get here
Is a God Who doesn't change.
Show them, Lord, it's like a mountain
Which is high and hard to climb;
But they still can make a difference;
It just takes a lot more time.
I pray in the Name of Jesus Christ,
AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

SB 109, An act concerning gaming compacts; relating to the procedure for the approval thereof; amending K.S.A. 46-2302 and repealing the existing section, by Committee on Federal and State Affairs.

SB 110, An act concerning the Kansas commission on veterans affairs; relating to memorials for Kansas veterans who served in the armed forces of the United States of America; prescribing certain guidelines and procedures; establishing the Kansas veterans memorials fund, by Committee on Federal and State Affairs.

SB 111, An act increasing marriage license fees; creating the domestic violence and sexual assault centers fund; amending K.S.A. 2004 Supp. 23-108a and repealing the existing section, by Committee on Judiciary.

SB 112, An act concerning materialman's liens; relating to determining priority of claims against property under construction; amending K.S.A. 60-1101, 60-1106 and 60-1110 and K.S.A. 2004 Supp. 60-1103b and repealing the existing sections, by Committee on Judiciary.

SB 113, An act concerning agriculture; relating to soil amendment products; amending K.S.A. 2004 Supp. 2-2805 and repealing the existing section; also repealing K.S.A. 2004 Supp. 2-2806, by Committee on Agriculture.

SB 114, An act concerning the bank commissioner; relating to the issuance of civil penalties, by Committee on Financial Institutions and Insurance.

SB 115, An act concerning social and rehabilitation services; relating to investigation of reports of abuse, neglect or exploitation; amending K.S.A. 2004 Supp. 39-1433 and repealing the existing section, by Committee on Public Health and Welfare.

SB 116, An act concerning social and rehabilitation services; providing injunctive authority against unlicensed facilities; amending K.S.A. 75-3307b and repealing the existing section, by Committee on Public Health and Welfare.

SB 117, An act concerning criminal procedure; relating to offender registration; amending K.S.A. 2004 Supp. 22-4902, 22-4909 and 22-4912 and repealing the existing sections, by Senator Brownlee.

SB 118, An act concerning state procurement; relating to state purchase of products by certain qualified vendors; definitions; amending K.S.A. 75-3317 and repealing the existing section, by Committee on Commerce.

SB 119, An act relating to the division of vehicles; concerning records thereof; amending K.S.A. 2004 Supp. 74-2012 and repealing the existing section, by Committee on Transportation.

SENATE CONCURRENT RESOLUTION No. 1602—

By Committee on Financial Institutions and Insurance

A CONCURRENT RESOLUTION urging the appointment of a task force to study the licensing and appointment process for insurance agents.

WHEREAS, The Kansas State Legislature created the Kansas Insurance Department in 1871; and

WHEREAS, The Kansas Insurance Department has established an agent licensing and appointment process; and

WHEREAS, Federal law may soon supersede current Kansas law requiring the Kansas Insurance Department to change the current agent licensing and appointment process; and

WHEREAS, The Kansas Insurance Department may need to request legislative changes to the Kansas Insurance Laws to be compliant: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That a task force be formed consisting of 14 members to include the chair, vice-chair and ranking minority of the senate committee on financial institutions and insurance; the chair, vice-chair and ranking minority of the house committee on insurance, the insurance commissioner or the commissioner's designee, one person representing a domestic property and casualty insurance company appointed by the insurance commissioner from a list submitted by the Kansas Association of Property and Casualty Insurance Companies, one person representing foreign stock insurance companies appointed by the insurance commissioner from a list submitted by the American Insurance Association, one person representing foreign insurance companies appointed by the insurance commissioner from a list submitted by the Property Casualty Insurance Association of America, one person representing a property and casualty insurance company appointed by the insurance commissioner from a list submitted by the National Association of Mutual Insurance Companies, one member representing Kansas insurance agents appointed by the insurance commissioner from a list submitted by the Kansas Association of Insurance and Financial Advisors and two members representing the licensed Kansas insurance agents appointed by the insurance commissioner from a list submitted by the

Kansas Association of Insurance Agents. The commissioner shall appoint the chairperson and the vice-chairperson from the membership of the committee. The chairperson and the vice-chairperson shall not be of the same political party. Legislative members serving on the task force shall receive pay and allowances as provided for legislative service. No other task force members shall receive any compensation, subsistence, mileage or other allowances for serving on the task force or attending any meeting thereof.

Be it further resolved: That the task force shall be charged to recommend changes to the Kansas uniform agents licensing act by a majority vote if the task force finds any changes to be necessary.

Be it further resolved: That the task force shall be staffed by the appropriate members of the legislative research department and the office of the revisor of statutes.

Be it further resolved: That the task force shall submit a final report to the president of the senate, the speaker of the house and the commissioner of insurance by January 1, 2006.

SENATE CONCURRENT RESOLUTION No. 1603—

By Senators Morris, D. Schmidt and Hensley

A CONCURRENT RESOLUTION adopting joint rules for the Senate and House of Representatives for the 2005-2006 biennium.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the following joint rules shall be the joint rules of the Senate and House of Representatives for the 2005-2006 biennium.

JOINT RULES OF THE SENATE AND
HOUSE OF REPRESENTATIVES
2005-2006

Joint rule 1. Joint rules; application and date of expiration; adoption, amendment, suspension and revocation. (a) *Joint rules; expiration, adoption, amendment, suspension and revocation; vote required.* Joint rules are adopted under the authority of section 8 of article 2 of the Constitution of the State of Kansas and shall govern matters made subject thereto except when otherwise specifically provided by joint rule. Joint rules shall expire at the conclusion of the terms of representatives. Joint rules shall be adopted, amended, suspended and revoked by concurrent resolution of the two houses of the legislature. Concurrent resolutions adopting joint rules shall receive the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in each house.

(b) *Amendment, suspension or revocation of joint rules; previous notice; vote required.* After one day's previous notice, joint rules may be amended, suspended or revoked by the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in each house. Upon the filing of such notice in either house, a message shall be sent to the other house advising of the filing of such notice and the reading of the message shall constitute notice to the members of such house. If such previous notice is not given, the affirmative vote of $\frac{2}{3}$ of the members then elected (or appointed) and qualified in each house shall be required for the amendment, suspension or revocation of a joint rule.

(c) *Amendment, suspension or revocation of joint rules at commencement of legislative session; vote required; conditions.* Notwithstanding any provision of this rule to the contrary, no notice shall be required for the adoption of a concurrent resolution amending, suspending or revoking any one or more joint rules at the commencement of a legislative session, and adoption of any such concurrent resolution shall require only the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in each house, subject to the following conditions: (1) The concurrent resolution is sponsored by the speaker or the president, and (2) either (a) a copy thereof is mailed to each member of the legislature by deposit in the United States mails not later than 11:00 p.m. on the Thursday preceding the Monday on which the legislative session is to commence or (b) in lieu of mailing, copies of the concurrent resolution are made available to members on the first day of the legislative session and final action is taken on a subsequent legislative day.

Joint rule 2. Joint sessions. (a) *Joint session called by concurrent resolution; vote required; time, place and subject matter.* A joint session of the senate and house of representatives may be called by concurrent resolution adopted by the affirmative vote of

not less than a majority of the members elected (or appointed) and qualified in each house of the legislature or as may otherwise be prescribed by law. Any such resolution shall fix the time and place of the joint session, and the subject matter to be considered at the joint session. Joint sessions shall consider only such matters as are prescribed by law or by the concurrent resolution calling such joint session.

(b) *Presiding officer at joint sessions; record of joint session; rules applicable.* The speaker of the house of representatives shall preside at all joint sessions of the senate and house of representatives, and the clerk of the house of representatives shall keep a record of the proceedings thereof and shall enter the record of each such session in the journal of the house of representatives. The rules of the house of representatives and the joint rules of the two houses, insofar as the same may be applicable shall be the rules for joint sessions of the two houses.

(c) *Votes in joint session; taking; requirements.* All votes in a joint session shall be taken by yeas and nays, and in taking the same it shall be the duty of the secretary of the senate first to call the names of the members of the senate, and after which the clerk of the house of representatives shall in like manner call the names of the members of the house. Each member of the senate and the house of representatives present shall be required to vote on all matters considered in joint session, unless excused by a vote of a majority of the members of both houses present.

Joint rule 3. Conference committee procedure. (a) *Action by house of origin of bill or concurrent resolution amended by other house.* When a bill or concurrent resolution is returned to the house of origin with amendments by the other house, the house of origin may: (1) Concur in such amendments; (2) refuse to concur in such amendments; or (3) refuse to concur in such amendments and request a conference on the bill or concurrent resolution.

(b) *Concurrence by house of origin; concurrence prior to taking action on conference committee report by other house; final action; effect of failure of motion to concur.* The house of origin of any bill or concurrent resolution may concur in any amendments made by the other house, except that if the bill or concurrent resolution has been referred to a conference committee such action may only be taken prior to the taking of final action upon the conference committee report upon such bill or concurrent resolution by the other house. A vote in the house of origin of any bill or concurrent resolution on a motion to concur in amendments to such bill or concurrent resolution by the other house shall be considered action on the final passage of the bill or concurrent resolution and the affirmative and negative votes thereon shall be entered in the journal. If the motion to concur is upon amendments to a bill or concurrent resolution for which a conference committee has been appointed and action has not been taken upon the report of such committee by the other house and such motion fails, the bill or concurrent resolution shall not be deemed to have been killed thereby, but if the motion to concur is upon amendments to a bill or concurrent resolution for which a conference committee has not been appointed and such motion fails, the bill or concurrent resolution shall be deemed to be killed.

(c) *Motion to nonconcur; when considered final action; effect of adoption of motion.* A vote in the house of origin of any bill or concurrent resolution on a motion to nonconcur or to refuse to concur in amendments to such bill or concurrent resolution by the other house which is not coupled with a request for the appointment of a conference committee shall be considered action on final passage of the bill or concurrent resolution and the affirmative and negative votes thereon shall be entered in the journal, and the bill or concurrent resolution shall be deemed killed on the adoption thereof.

(d) *House of origin refusal to concur or nonconcur; request for conference; procedure.* When a bill or concurrent resolution is returned by either house to the house of origin with amendments, and the house of origin refuses to concur or to nonconcur therein, a conference may be requested by a majority vote of the members present and voting. Such request shall be transmitted to the other house by message which shall include the names of the conferees on the part of the requesting house. Upon receipt of any such message, the receiving house may, in like manner, approve such conference, and shall thereupon notify the requesting house by message stating the names of its conferees.

(e) *Membership; appointment; chairperson; house of origin of substitute or materially changed bill or concurrent resolution; meetings of conference committee.* Each conference committee shall consist of three members of the senate and three members of the house of representatives, unless otherwise fixed by agreement of the president of the senate and speaker of the house. Senate members shall be appointed by the president of the senate and house members shall be appointed by the speaker of the house of representatives. The president or the speaker may replace any conferee previously appointed by such person. Not less than one member appointed from each house shall be a member of the minority political party of such house except when such representation for such house is waived by the minority leader of such house. In all cases, the first-named member of the house of origin of the bill or concurrent resolution assigned to the committee shall be chairperson of the conference committee. The house of origin of a substitute bill or substitute concurrent resolution shall be the house in which the bill or concurrent resolution in its original form was introduced. The chairperson of a conference committee on a bill or concurrent resolution the subject matter of which has been ruled to be materially changed shall be a member of the house which amended the bill or concurrent resolution to materially change the subject matter. Each conference committee shall meet on the call of its chairperson. All meetings of conference committees shall be open to the public and no meeting shall be adjourned to another time or place in order to subvert such policy.

(f) *Conference committee reports; subject matters which may be included; report not subject to amendment; house which acts first on report; copies of reports; reports considered under any order of business.* Only subject matters which are or have been included in the bill or concurrent resolution in conference or in bills or concurrent resolutions which have been passed or adopted in either one or both houses during the current biennium of the legislature may be included in the report of the conference committee on any bill or concurrent resolution except in any appropriations bill there may be included a proviso relating to any such item of appropriation. A conference committee report shall not be subject to amendment. The original signed conference committee report shall be submitted to and acted upon first by the house other than the house of origin of the bill or concurrent resolution. Copies of each report shall be made available to all members of the house considering the same not later than the time of consideration of the report, except when such report is that members of the committee are unable to reach agreement or is a recommendation to accede to or to recede from all of the amendments of the second house. The affirmative vote of $\frac{2}{3}$ of the members present in the house at the time of consideration of the report shall be sufficient to dispense with distribution of copies of the conference committee report to all members of that house. Reports of conference committees may be received and considered under any order of business.

(g) *Signatures required on conference committee reports.* All initial conference committee reports other than an agreement to disagree coupled with a request that a new conference committee be appointed shall be signed by all of the conferees. All initial conference committee reports which are an agreement to disagree coupled with a request that a new conference committee be appointed shall be signed by a majority of the conferees appointed in each house. If a conference committee report which is an agreement to disagree coupled with a request that a new conference committee be appointed is not adopted, a subsequent conference committee report shall be signed by all conferees unless a subsequent conference committee report which is an agreement to disagree coupled with a request that a new conference committee be appointed is adopted, in which case a conference committee report subsequent to the adoption of such report shall be signed by a majority of the conferees appointed in each house. All other conference committee reports shall be signed by a majority of the conferees appointed in each house.

(h) *Vote to adopt conference committee report final action; effect of failure of motion to adopt conference committee report.* The vote to adopt the report of a conference committee, other than a report of failure to agree coupled with a recommendation for appointment of a new conference committee, shall be considered final action on the bill or concurrent resolution and the affirmative and negative votes thereon shall be entered in the journal. If the motion fails, the bill or concurrent resolution shall be deemed to be killed. If the motion on a conference committee report which is an agreement to disagree coupled with a request

that a new conference committee be appointed fails, the bill or concurrent resolution shall not be deemed to have been killed thereby and remains in conference.

(I) *Report of conference committee unable to agree; effect of failure to request new conference committee; effect of failure of motion to adopt report requesting new conference committee.* If a conference committee upon any bill or concurrent resolution is unable to agree, it shall report that fact to both houses. Such report may request that a new conference committee be appointed thereon. If the committee so reports but fails to request the appointment of a new conference committee thereon the bill or concurrent resolution shall be deemed to have been killed upon the adoption by either house of such report. If the motion to adopt a report requesting the appointment of a new conference committee fails, the bill or concurrent resolution shall be deemed to be killed.

(j) *Bills or concurrent resolutions under consideration by conference committees and reports thereof; carryover from odd-numbered to even-numbered year.* Bills or concurrent resolutions under consideration by a conference committee, or a report of which has been filed but no action taken thereon in either house, at the time of adjournment of a regular session of the legislature held in an odd-numbered year shall remain alive during the interim and may be considered by the committee and legislature as the case may be at the regular session held in the following even-numbered year.

Joint rule 4. Deadlines for introduction and consideration of bills. The senate and house of representatives shall observe the following schedule of deadlines in making requests for drafting and in the introduction and consideration of bills.

(a) *Bill request deadline for individual members.* Except for bills introduced pursuant to (I) of this rule, no request to draft bills, except those made by committees, through their respective chairpersons, shall be made to, or accepted by, the office of the revisor of statutes after the hour of 5:00 p.m. on January 24, 2005, during the 2005 regular session and on January 23, 2006, during the 2006 regular session.

(b) *Bill introduction deadline for individual members.* Except as provided in (I) of this rule, no bill sponsored by a member or members shall be introduced in either house of the legislature after the hour of adjournment on February 9, 2005, during the 2005 regular session and on February 8, 2006, during the 2006 regular session. Such deadline for the introduction of bills by individual members may be changed to an earlier date in either house at any time by resolution duly adopted by the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified in such house.

(c) *Bill request deadline for certain committees.* Except for bills to be introduced pursuant to (I) of this rule, no committee except the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall make a request to the office of the revisor of statutes for any bill to be drafted for sponsorship by such committee after the hour of 5:00 p.m. on February 3, 2005, during the 2005 regular session and on February 2, 2006, during the 2006 regular session.

(d) *Bill introduction deadline for certain committees.* Except as provided in (I) of this rule, no bill sponsored by any committee of either house of the legislature, except the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall be introduced in either house after the hour of adjournment on February 11, 2005, during the 2005 regular session and on February 10, 2006, during the 2006 regular session.

(e) *House of origin bill consideration deadline.* No bill, except bills sponsored by, referred to or acted upon by the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house or the house committees on calendar and printing, appropriations and taxation shall be considered in the house in which such bill originated after the hour of adjournment on February 26, 2005, during the 2005 regular session and on February 25, 2006, during the 2006 regular session.

(f) *Second house bill consideration deadline.* No bill, except bills sponsored by, referred to or acted upon by the committee on ways and means of the senate, select committees of either house when so authorized, the committee on federal and state affairs of either house

or the house committees on calendar and printing, appropriations and taxation shall be considered by the house, not the house of origin of such bill, after the hour of adjournment on March 26, 2005, during the 2005 regular session and March 25, 2006, during the 2006 regular session.

(g) *Exceptions to limitation of (d), (e) and (f); procedure.* Specific exceptions to the limitations prescribed in subsections (d), (e) and (f) may be made in either house by resolution adopted by the affirmative vote of not less than a majority of the members of such house then elected (or appointed) and qualified.

(h) *Deadline which falls on day neither house in session; effect.* In the event that any deadline prescribed in this rule falls on a day that neither house of the legislature is in session, such deadline shall be observed on the next following day that either house is in session.

(I) *Bills introduced in odd-numbered years after deadlines; effect.* Bills may be introduced by members and committees in regular sessions occurring in an odd-numbered year after the times prescribed in (b) and (d) of this rule, but there shall be no final action thereon by either house during the session when introduced. Such bills shall be held over for consideration at the next succeeding regular session held in an even-numbered year.

(j) *Modification of schedule of deadlines for introduction and consideration of bills; procedure.* In any regular session a concurrent resolution may be adopted by the affirmative vote of not less than a majority of the members then elected (or appointed) and qualified of each house setting forth a different schedule of deadlines for introduction and consideration of bills for that session and the provisions of such concurrent resolution shall apply to such session notwithstanding provisions of this rule to the contrary.

(k) *Bill consideration deadline; exceptions.* No bills shall be considered by the Legislature after April 9, 2005, during the 2005 regular session and after April 8, 2006, during the 2006 regular session except bills vetoed by the Governor, the omnibus appropriation act and the omnibus reconciliation spending limit bill provided for under K.S.A. 75-6702 and amendments thereto. This subsection (k) may be suspended for the consideration of a specific bill or bills not otherwise exempt under this subsection by the affirmative vote of a majority of the members then elected (or appointed) and qualified in the house in which the bill is to be considered.

Joint rule 5. Closure of meetings to consider matters relating to security. Any standing committee of the House of Representatives, any standing committee of the Senate, the Legislative Coordinating Council, any joint committee of both houses of the legislature, any special or select committee of the House of Representatives or the Senate, the House of Representatives in session, the Senate in session or a joint session of the House of Representatives and the Senate may meet in closed, executive session for the purpose of receiving information and considering matters relating to the security of state officers or employees, or both, or the security of buildings and property under the ownership or control of the State of Kansas.

SENATE CONCURRENT RESOLUTION No. 1604—

By Committee on Public Health and Welfare

A CONCURRENT RESOLUTION concerning healthy eating and physical activity in public elementary and secondary schools.

WHEREAS, Kansas as well as the rest of our nation is experiencing an epidemic of child and adolescent obesity. In addition to our children being overweight and physically inactive they are becoming increasingly subject to acquiring Type II diabetes, a disease once associated with adults. Poor nutrition and physical inactivity are responsible for 28% of preventable deaths, second only to tobacco; and

WHEREAS, The causes of this epidemic are complex and multifaceted but primarily are due to increased caloric consumption and decreased physical activity. Unfortunately for many students their school meals rarely consist of a nutritionally balanced meal. While the federal government has established nutrition standards for school meals, many students' meals are obtained from vending machines which typically are high in fat, sugar and sodium but are low in essential nutrients such as vitamins and minerals; and

WHEREAS, While some of our secondary students participate in varsity sports competition and may have physical education classes, it is believed that the bulk of our students are physically inactive; and

WHEREAS, The purpose of this resolution is to request the Kansas Department of Education, in cooperation with other state agencies, private foundations and other private entities to study our state's public schools with regard to their school food programs, the availability of other food items available on school premises, any available classes on health and physical activities intended to promote healthy bodies and physical fitness, and to report to the legislature their findings and appropriate recommendations for improving the diets and physical well being of our students. The implementation of such recommendations should result in creating healthy eating behaviors and appropriate exercise habits in our children which hopefully will remain with them throughout their lives: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Kansas Department of Education take the lead in this endeavor so critical to the well being of our students with the desire that suggested improvements to this problem be reported to the legislature by the start of the 2006 legislative session; and

Be it further resolved: That the Secretary of State provide an enrolled copy of this resolution to the Commissioner of the Kansas Department of Education.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 105**.

Commerce: **SB 107, SB 108**.

Elections and Local Government: **SB 106; HB 2007**.

Financial Institutions & Insurance: **SB 97, SB 100, SB 101, SB 102, SB 103, SB 104**.

Judiciary: **SB 96**.

Natural Resources: **SB 98**.

Public Health and Welfare: **SB 91, SB 92**.

Transportation: **SB 88, SB 94**.

Utilities: **SB 93**.

Ways and Means: **SB 89, SB 90, SB 95, SB 99**.

CHANGE OF REFERENCE

The President withdrew **SB 97** from the Committee on Financial Institutions and Insurance, and referred the bill to the Committee on Judiciary.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS STATE HISTORICAL SOCIETY

January 21, 2005

Patricia Michaelis, State Archivist, submitted the State Records Annual Report for fiscal year 2004.

KANSAS CORPORATION COMMISSION

Kansas State Energy Office

The 2004 Annual Report of the Kansas State Energy Office was submitted by Brian Moline, Chair, Kansas Corporation Commission.

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.

REPORTS OF STANDING COMMITTEES

Committee on **Elections and Local Government** recommends **HB 2007** be passed.

On motion of Senator Schmidt the Senate adjourned until 2:30 p.m., Thursday, January 27, 2005.

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

PAT SAVILLE, *Secretary of the Senate*.

