

Journal of the Senate

EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, January 23, 2003—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with thirty-eight senators present.
Senators Corbin and Feleciano were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
When the temperature drops
Into single digits
People like me
Begin to fidget.

Last week there fell
Quite a bit of snow;
It didn't last long
But it helps things grow.

This week there fell
A little more snow,
But it was bitter cold
And how the wind did blow!

The last two days
I wore so many clothes
The only things showing
Were my eyes and nose.

My wife told me,
"Try not to fall."
I said, "With all these clothes
I'd roll like a ball."

As I walked through the snow
I asked You, Lord, "Why?"
You said, "The ground needs moisture,
It's been very dry."

Now walking down Harrison
From Parking Lot Four,
I'm still cold
But don't complain anymore.

People working outside
Probably never ask "Why?"
So thanks for the moisture, Lord,
It's really been dry!

I pray in Jesus' Name,
AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 52, An act concerning the emergency medical services board; relating to financial support therefor; amending K.S.A. 2002 Supp. 75-1508 and repealing the existing section, by Committee on Ways and Means.

SB 53, An act concerning counties; relating to statements of expenditures; amending K.S.A. 2002 Supp. 19-228 and repealing the existing section, by Committee on Federal and State Affairs.

SB 54, An act concerning crimes, criminal procedure and punishment; creating the crime of negligent homicide and prescribing penalties therefor, by Committee on Judiciary.

SB 55, An act concerning school districts; relating to the powers and duties of the governing bodies thereof; amending K.S.A. 72-8205 and repealing the existing section, by Senator Buhler.

SB 56, An act establishing a putative father registry; requiring certain actions of putative fathers and prescribing penalties thereto; responsibilities of secretary of social and rehabilitation services; termination of parental rights; amending K.S.A. 59-2133 and 59-2136 and K.S.A. 2002 Supp. 45-221 and repealing the existing sections, by Senator Emler.

SB 57, An act concerning school districts; relating to the powers and duties of the governing bodies thereof; amending K.S.A. 72-8205 and repealing the existing section, by Committee on Education.

SB 58, An act concerning school districts; authorizing establishment and maintenance of alternative teacher compensation plans; providing for grants of state moneys, by Committee on Education.

SB 59, An act providing for a Kansas exemplary schools recognition program, by Committee on Education.

SB 60, An act concerning retirement; relating to certain school retirants; employment after retirement; requiring certain duties of state board of education and legislative educational planning committee; amending K.S.A. 72-5437, 72-5445, 72-7513 and 74-4914 and K.S.A. 2002 Supp. 46-1208a and repealing the existing sections, by Committee on Education.

SB 61, An act enacting the uniform athlete agents act; amending K.S.A. 2002 Supp. 45-221 and repealing the existing section; also repealing K.S.A. 44-1501, 44-1502, 44-1503, 44-1504, 44-1505, 44-1507, 44-1508, 44-1509, 44-1510, 44-1511, 44-1513, 44-1514 and 44-1515 and K.S.A. 2002 Supp. 44-1506 and 44-1512, by Legislative Educational Planning Committee.

SB 62, An act making and concerning appropriations for the fiscal year ending June 30, 2003, for the state bank commissioner, Kansas board of barbering, Kansas state board of cosmetology, state department of credit unions, board of nursing, board of examiners in optometry, state board of pharmacy, office of the securities commissioner of Kansas, lieutenant governor, insurance department, department of administration, state board of tax appeals, department of revenue, Kansas racing and gaming commission, department of commerce and housing, Kansas technology enterprise corporation, Kansas commission on veterans affairs, department of health and environment, department on aging, department of social and rehabilitation services, department of education, Kansas state historical society, Emporia state university, Wichita state university, state board of regents, department of corrections, juvenile justice authority, adjutant general, Kansas highway patrol, Kansas department of agriculture, state fair board, state conservation commission, Kansas water office and department of transportation; authorizing certain transfers and capital improvement projects, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing; amending K.S.A. 2-223 and repealing the existing section, by Committee on Ways and Means.

SB 63, An act concerning state boards and commissions, renaming the law enforcement telecommunications committee; amending K.S.A. 74-5701, 74-5702, 74-5703, 74-5704 and 74-5706 and repealing the existing sections, by Committee on Judiciary.

SB 64, An act relating to crimes and punishment; concerning offender registration; amending K.S.A. 2002 Supp. 22-4902, 22-4903, 22-4904 and 22-4905 and repealing the existing sections, by Committee on Judiciary.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Elections and Local Government: **SB 40**.

Federal and State Affairs: **SB 41, SB 42, SB 43, SB 46**.

Judiciary: **SB 48**.

Utilities: **SB 51**.

Ways and Means: **SB 45, SB 47, SB 49, SB 50**.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

Senator Oleen moved the following appointments be confirmed as recommended by the Standing Senate Committees:

On the appointment to the:

Agriculture Remediation Board:

Roger A. Long, term expires June 30, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Agriculture Remediation Board:

Laura J. Pearl, term expires June 30, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Board of Indigents' Defense Services:

Mary L. Rubeck, term expires January 15, 2004.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Board of Regents:

Richard L. "Dick" Bond, term expires June 30, 2006.

On roll call, the vote was: Yeas 36, Nays 0, Present and Passing 2, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Clark, Huelskamp.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Board of Regents:

Donna L. Shank, term expires June 30, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Board of Regents:

James R. Grier III, term expires June 30, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Kansas Human Rights Commission:

Lou Ann Thoms, term expires January 15, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Kansas, Inc.:

Charles G. Comeau, term expires January 15, 2004.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Kansas, Inc.:

Donald P. Schnacke, term expires January 15, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting

2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schoendorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Kansas, Inc.:

Paul D. Stephenson, term expires January 15, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting

2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schoendorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Kansas Technology Enterprise Corporation Board of Directors:

John B. Payne, term expires January 15, 2005.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting

2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schoendorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Kansas Technology Enterprise Corporation Board of Directors:

Lindsey M. Olsen, term expires January 15, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting

2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schoendorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Kansas Technology Enterprise Corporation Board of Directors:

David W. Brant, term expires January 15, 2004.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting

2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schoendorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Kansas Lottery Commission:

Jeanine McKenna, term expires March 15, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Pooled Money Investment Board:

John D. Cleland, term expires March 15, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Pooled Money Investment Board:

John W. Lehman, term expires March 15, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

Public Employee Relations Board:

Melissa Wangemann, term expires March 15, 2006.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

State Banking Board:

Michael D. Stevens, term expires March 15, 2005.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

State Banking Board:

Dan R. Peterson, term expires March 15, 2005.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

State Civil Service Board:

D. Kent Hum, term expires March 15, 2005.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

University of Kansas Hospital Authority:

Patricia A Gaunce, term expires March 15, 2003.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

University of Kansas Hospital Authority:

Stuart C. Lang, term expires March 15, 2003.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

On the appointment to the:

University of Kansas Hospital Authority:

John B. Payne, term expires March 15, 2004.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The appointment was confirmed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 4, An act concerning the cash-basis law; relating to exemptions therefrom; amending K.S.A. 10-1102 and 10-1116a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The bill passed.

SB 6, An act repealing K.S.A. 74-8840; relating to certain audits of the accounts and transactions of the racing and gaming commission, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Corbin, Feleciano.

The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 2** be amended on page 3, in line 17, following "appoint", by inserting ", in the manner provided by subsection (e)."; 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 Harrington in the chair.

On motion of Senator Harrington the following report was adopted:

Recommended **SB 44** be passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 44** was advanced to Final Action and roll call.

SB 44, An act relating to hospitals; providing for transfer of hospital assets under certain circumstances to a foundation created under this act; providing for the creation of such foundations and the appointment of a board of directors therefor; placing certain limitations and prohibitions on such foundations and associated persons; and defining certain terms.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 0, Absent or Not Voting 2.

Yeas: Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Adkins.

Absent or Not Voting: Corbin, Feleciano.

The bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT, I vote aye on **SB 44** only in deference to the attorney general's plea that immediate passage of this legislation is necessary to strengthen the legal position of Kansas in pending litigation. We are told that if we fail to act, the likelihood that Kansas

will lose tens of millions of dollars to Missouri after the sale of Health Midwest, Inc., to Healthcare Corporation of America is increased.

I question the wisdom of this bill. I question whether singling out hospitals for special treatment under the *cy pres* doctrine is wise and whether this ad hoc approach to cases of concern is good public policy. I question whether some of the specific language in the bill will carry out its intended and stated purposes. I question some of the specific language. I question whether adequate protections are in place to protect the financial and health care interests of Allen County, which is the site of one of the hospitals involved in the pending sale.

I also object to the process by which the language of this bill was drafted - a process that involved only a small number of legislators, none of whom were elected to represent the interests of Allen County.

Nevertheless, we are told that **SB 44** must be passed quickly - immediately - bypassing the ordinary committee process, hearing process, deliberative process, amendment process, and other safeguards normally afforded legislation. I understand and defer to that need for prompt action. As we have learned, however, legislation passed in haste is more likely to have consequences unintended by the legislature. I vote yes on **SB 44** with the assurance of the Senate President and the Senate Judiciary Committee chairman that if further reflection reveals unintended consequences, especially those that might be detrimental to rural health care in Kansas, we will fix those problems as quickly as we are passing this bill—

DEREK SCHMIDT.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Friday, January 24, 2003.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

