

Journal of the Senate

SEVENTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, February 5, 2003—2:30 p.m.

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

Heavenly Father,

Legislators have a stressful life even when things are normal . . . whatever that is.

They meet in committees from 8:30 to 2:30 with sub committees and caucuses meeting at 7:30. From 2:30 until who knows when they are in session.

Most of them have jobs back home which need their input from time to time, which is an understatement.

All of them have families who need their presence for emergencies, ball games, weddings, school functions and other events.

They get messages from constituents, special interest groups, party leaders, the Governor, the House, lobbyists, and various sundry agencies, and from home.

They have three or four social events they are expected to attend every night during the week.

They get letters, cards, E mail, phone calls, and personal visits from people who do not always tell them what a wonderful job they are doing.

They have to consult with Revisors and Research from time to time.

They have interviews with reporters when reporters can catch them.

Between sessions they have to journey back and forth to Topeka for interim committees.

Toward the end of the session they have conference committees.

During an election year they spend a lot of time, money, and shoe leather campaigning.

And I'm sure that any one of them could tell me several activities I omitted.

So, Lord, I pray for them. Give them the speed of a gazelle, the strength of a bull, the wisdom of Solomon, the patience of Job, the endurance of an athlete, and skin thick as a crocodile's.

And keep reminding them that there are literally thousands of people in whose lives they can make a difference.

I ask this in Jesus' Name,

AMEN

GUESTS OF THE SENATE

Senator Lyon rose on a point of personal privilege to introduce his daughter, Lisa and classmate, Jared Malicke, who served as pages in the House of Representatives today. Accompanying the students was Gary Bedigrew, Principal, Jefferson County North Middle School.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 142, An act concerning motor vehicles; relating to the registration thereof; certifying proof of financial security; amending K.S.A. 8-173 and K.S.A. 2002 Supp. 40-3118 and repealing the existing sections, by Committee on Transportation.

SB 143, An act concerning the school district capital improvements fund; amending K.S.A. 2002 Supp. 75-2319 and repealing the existing section, by Committee on Ways and Means.

SB 144, An act concerning insurance; relating to the use of credit scores in issuing certain policies, by Committee on Financial Institutions and Insurance.

SB 145, An act concerning the state board of agriculture; amending K.S.A. 74-560 and 74-562 and repealing the existing sections; also repealing K.S.A. 74-563, 74-564, 74-565, 74-566 and 74-567, by Senator Corbin.

SB 146, An act concerning income taxation; relating to dividend income; amending K.S.A. 2002 Supp. 79-32,117 and repealing the existing section, by Committee on Assessment and Taxation.

SB 147, An act relating to sales taxation; authorizing Chase county to impose a countywide sales tax; amending K.S.A. 2002 Supp. 12-187 and repealing the existing section, by Committee on Assessment and Taxation.

SB 148, An act enacting the Kansas estate tax act; repealing K.S.A. 2002 Supp. 79-15,100, 79-15,101, 79-15,102, 79-15,103, 79-15,105, 79-15,106, 79-15,107, 79-15,108, 79-15,109, 79-15,111, 79-15,112, 79-15,113, 79-15,114, 79-15,115, 79-15,116, 79-15,117, 79-15,118, 79-15,119, 79-15,125 and 79-15,127, by Committee on Assessment and Taxation.

SB 149, An act concerning taxation; relating to redemption of real property; permitting reimbursement for certain items; amending K.S.A. 2002 Supp. 79-2401a and repealing the existing section, by Committee on Elections and Local Government.

SB 150, An act concerning taxation; relating to sale of real estate for taxes; amending K.S.A. 79-2301 and repealing the existing section, by Committee on Elections and Local Government.

SB 151, An act concerning county hospitals; amending K.S.A. 19-4601 and repealing the existing section, by Committee on Public Health and Welfare.

SB 152, An act concerning school districts; relating to certain pupils; amending K.S.A. 72-1046a and repealing the existing section, by Committee on Federal and State Affairs.

SB 153, An act concerning telecommunications; relating to enhanced wireless 911 service; public safety loan fund; amending K.S.A. 12-5302 and repealing the existing section, by Committee on Commerce.

SB 154, An act relating to the Kansas animal health board; increasing membership; amending K.S.A. 74-4001 and repealing the existing section, by Committee on Natural Resources.

SB 155, An act concerning solid hazardous waste; relating to waste tires; amending K.S.A. 65-3424, 65-3424a, 65-3424b, 65-3424g, 65-3424k and 65-3426 and repealing the existing sections; also repealing K.S.A. 65-3424m, by Committee on Natural Resources.

SB 156, An act concerning the Kansas healing arts act; concerning use of titles by licensees; amending K.S.A. 65-2885 and repealing the existing section, by Senator Hensley.

SB 157, An act concerning teachers; relating to teacher preparation programs, by Senator Lyon.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Agriculture: **SB 131, SB 135.**

Assessment and Taxation: **SB 140.**

Commerce: **SB 133, SB 134.**

Elections and Local Government: **SB 138; SCR 1607.**

Federal and State Affairs: **SB 136.**

Judiciary: **SB 137, SB 141; HB 2031.**

Public Health and Welfare: **SB 132, SB 139.**

Transportation: **SB 130**.

REFERRAL OF APPOINTMENTS

The following appointments made by the Governor and submitted to the senate for confirmation, were referred to Committees as indicated:

Secretary, Department of Corrections,

Roger Werholtz, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

(Judiciary)

Secretary, Department of Health and Environment,

Roderick Bremby, effective upon the date of confirmation by the Senate to serve at the pleasure of the Governor.

(Public Health and Welfare)

Secretary, Department of Transportation,

Deb Miller, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

(Transportation)

Secretary, Department of Wildlife and Parks,

J. Michael Hayden, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

(Natural Resources)

MESSAGE FROM THE GOVERNOR

February 5, 2003

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

KATHLEEN SEBELIUS
Governor

Secretary, Department of Commerce and Housing, John Moore, pursuant to the authority vested in me by KSA 74-5002a, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

Secretary, Department of Administration, Howard Fricke, pursuant to the authority vested in me by KSA 75-3702a, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

Secretary, Department of Social and Rehabilitation Services, Janet Schalansky, pursuant to the authority vested in me by KSA 75-5301, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2003**.
Also, passage of **SB 6**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2003 was thereupon introduced and read by title.

FINAL ACTION ON CONSENT CALENDAR

SB 18, **SB 26**, **SB 52** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 18, An act concerning civil procedure; relating to executions; issuance; amending K.S.A. 2002 Supp. 60-2401 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, 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.

The bill passed.

SB 26, An act concerning insurance; relating to risk-based capital requirements; amending K.S.A. 2002 Supp. 40-2c01 and repealing the existing section.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, 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.

The bill passed.

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.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, 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.

The bill passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

SB 14, An act concerning providers of care services; employment of persons by such providers; amending K.S.A. 65-5117 and K.S.A. 2002 Supp. 39-970 and repealing the existing sections, was considered on final action.

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

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

Nays: Haley, Pugh.

The bill passed.

SB 17, An act concerning district courts; relating to clerks and nonjudicial personnel; amending K.S.A. 2002 Supp. 20-343 and 20-345 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, 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.

The bill passed.

SB 19, An act concerning retirement and pensions; relating to the retirement system for judges; mandatory retirement; amending K.S.A. 20-2608 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Schmidt.

The bill passed.

SB 31, An act concerning crimes, criminal procedure and punishment; relating to inherently dangerous felonies; amending K.S.A. 2002 Supp. 21-3436 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 1, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Haley.

The bill passed.

SB 47, An act concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; death and disability benefits; amending K.S.A. 74-4927 and 74-4927f and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, 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.

The bill passed, as amended.

SR 1807, A resolution urging the United States Department of Labor to award Senior Community Service Employment Program grants to Experience Works in Kansas and throughout the country, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, 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.

The resolution was adopted.

S Sub for HB 2026, An act making and concerning appropriations for the fiscal year ending June 30, 2003, for the insurance department, state board of indigents' defense services, Kansas public employees retirement system, department of health and environment, department on aging, department of social and rehabilitation services, department of education 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. 2002 Supp. 79-2959, 79-2964 and 79-3425i and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jordan, Kerr, Lee, Morris, Oleen, Salmans, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Brownlee, Gilstrap, Huelskamp, Lyon, O'Connor, Pugh, Schmidt.

The substitute bill passed, as amended.

Explanation of Vote

I vote AYE on **S Sub for HB 2026**. In doing so, I join many of my colleagues in following the Governor's proposal for the FY 2003 supplemental budget.

These are unpleasant cuts to make. I fully recognize the impact of our actions to reduce spending. We face a serious budget shortfall. However, there are few options as we try to meet the obligations of our FY 2003 budget. I am hopeful the budget conference committee will resolve differences in a timely manner. We cannot afford delay.

Even more difficult decisions await us as we continue to work with the Governor and the House of Representatives in building the FY 2004 budget. Serious solutions to these challenges will be critical as we work to ensure the burdens of these challenging times are not unjustly borne by any single constituency.

By passing **S Sub for HB 2026** today we are taking the first step to coming together and enacting real solutions to meet the present uncertainties we face as Kansans.—DAVE KERR
Senator Haley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Kerr on **S Sub for HB 2026**.

HCR 5001, Joint rules for the Senate and House of Representatives, 2003-2004, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, 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.

The resolution was adopted.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 33** be amended on page 4, in line 12, following "(k)", by inserting "(1)"; following line 16, by inserting the following:

"(2) The court shall not order the impoundment or immobilization of a motor vehicle owned or driven by a person convicted of a violation of this section if:

(A) the motor vehicle had been stolen or converted at the time it was driven in violation of this section;

(B) the owner of the motor vehicle did not know, and could not have been expected to know, that the person convicted of violating this section was driving such vehicle in violation of this section; or

(C) the owner of the motor vehicle took all reasonable steps to stop the person convicted of violating this section from driving such vehicle.

(3) Prior to ordering the impoundment or immobilization of a motor vehicle owned or driven by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:

(A) Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and

(B) whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.

(4) Any personal property in a vehicle impounded pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.";

On page 5, in line 6, following "(o)", by inserting "(1)"; following line 22, by inserting the following:

"(2) The court shall not order the impoundment or immobilization of a motor vehicle owned or driven by a person convicted of a violation of this section if:

(A) the motor vehicle had been stolen or converted at the time it was driven in violation of this section;

(B) the owner of the motor vehicle did not know, and could not have been expected to know, that the person convicted of violating this section was driving such vehicle in violation of this section; or

(C) the owner of the motor vehicle took all reasonable steps to stop the person convicted of violating this section from driving such vehicle.

(3) Prior to ordering the impoundment or immobilization of a motor vehicle owned or driven by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:

(A) Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and

(B) whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.

(4) Any personal property in a vehicle impounded pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization."; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 47 reported correctly engrossed February 5, 2003.

REPORT ON ENROLLED BILLS

SR 1806 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 5, 2003.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Thursday, February 6, 2003.

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

PAT SAVILLE, *Secretary of the Senate.*

