

# Journal of the Senate

FORTY-SECOND DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, March 13, 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,

There's a custom in this chamber  
Which keeps debating fair:  
To help reduce emotion  
We always address the Chair.

When we don't address each other,  
It helps reduce the tension;  
So we always address the Chair  
Which helps prevent dissension.

It seems to me a good idea,  
When we go to prayer,  
To assume the understanding  
That God is in the Chair!

So if we have a problem  
With someone anywhere,  
Before we vent our anger  
We should address the Chair.

In fact we should remember  
To always be aware  
Relationships can be saved  
If we first address the chair.

Remind us, Lord, You're on the throne  
And when it's time for prayer,  
Our temper's easier to control  
When we address the Chair.

I pray in the Name of Jesus,

AMEN

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **HB 2329**.

Ways and Means: **SB 260**.

## MESSAGE FROM THE HOUSE

Announcing passage of **HB 2176**.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2176** was thereupon introduced and read by title.

**CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR**

On motion of Senator Morris the Senate nonconcurred in the House amendments to **SB 4** and requested a conference committee be appointed.

The President appointed Senators Morris, Adkins and Feleciano as a conference committee on the part of the Senate.

On motion of Senator Morris the Senate nonconcurred in the House amendments to **SB 175** and requested a conference committee be appointed.

The President appointed Senators Morris, Adkins and Feleciano as a conference committee on the part of the Senate.

**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:

*Kansas Human Rights Commission:*

Beth M. Bradrick, Ph.D., term expires January 15, 2007.

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 appointment was confirmed.

On the appointment to the:

*Secretary of Aging:*

Pamela Johnson Betts, serves at the pleasure of the Governor.

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 appointment was confirmed.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**SB 7**, An act concerning technical colleges; relating to the governing body thereof; amending K.S.A. 72-4470 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Donovan, Gooch, Harrington, Schodorf, Wagle.

The bill passed.

**SB 123**, An act concerning crimes and punishment; relating to possession of drugs; mandatory treatment; amending K.S.A. 65-4160 and K.S.A. 2002 Supp. 21-4603d, 21-4705, 21-4714, 22-3716 and 75-5291 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 26, Nays 14, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barnett, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Gilstrap, Gooch, Goodwin, Haley, Hensley, Jackson, Jordan, Kerr, Lee, Morris, Oleen, Salmans, Schodorf, Steineger, Teichman, Vratil, Wagle.

Nays: Adkins, Barone, Brownlee, Emler, Feleciano, Harrington, Huelskamp, Lyon, O'Connor, Pugh, Schmidt, Taddiken, Tyson, Umbarger.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote AYE on **SB 123**.

Passage of this bill ensures that the Kansas correctional system focuses on drug treatment for non-violent drug possession offenders.

We know that housing offenders in a secure setting, providing room and board without treatment is expensive and ineffective. Drug offenders return to Kansas prisons at an alarming rate because they receive no treatment for their addiction. Drug addiction is a disease.

To achieve any measurable level of successful rehabilitation of these drug offenders, we must implement an intensive and effective drug treatment program. We must target offenders who have the best chance of success.

Yes, it will be expensive. We must balance the costs of rehabilitation with those of building and maintaining new prisons. Every year we have a net increase in prison population. We could build another prison, and by using bonds, delay the payments; but the real cost of a new prison is the staffing, the food, and the costs that go on year after year.

My vote for **SB 123** is a vote to reduce crime by breaking the drug addiction cycle. It is a vote to avoid a tax increase for new prison construction and operation. The present system doesn't work; we must change our methods of dealing with the disease of drug addiction.—

PETE BRUNGARDT

Senators Allen, Buhler, Downey, Haley, Jordan, Morris, Oleen Schodorf, Teichman and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Brungardt on **SB 123**.

MR. PRESIDENT: **SB 123** is well intentioned and its underlying purpose is laudable. Providing treatment for those who will benefit may, indeed, reduce crime and the cost of the penal system in Kansas.

Unfortunately, I believe **SB 123** will have the opposite of the intended effect. Fewer prosecutors will be willing to charge or amend to a level 4 crime, thereby creating a greater need for prison beds. Instead of making certain treatment will only be available to those most likely to succeed, **SB 123** provides early release to those who should enjoy the continuing comforts of the penal institution.

MR. PRESIDENT, because I believe **SB 123** will have the opposite of the intended effect, I vote no.—JAY SCOTT EMLER

Senators Barone, Brownlee and O'Connor request the record to show they concur with the "Explanation of Vote" offered by Senator Emler on **SB 123**.

MR. PRESIDENT: I vote yes on **SB 123**. I believe this bill to be one of the most important long term public policy issues to come before the Senate this year. This bill addresses the legitimate safety concerns of citizens and the need to help people take control of their lives by mandating mandatory treatment for nonviolent and small-possession drug offenders. Costs of dealing with repeat drug offenders continue to soar. Spending funds up front to prevent problems can significantly cut unnecessary costs later on in state-run corrections, health, education and welfare programs. Treatment and rehabilitation of these drug offenders means saving lives otherwise lost and most often keeping families together.—GRETA GOODWIN

Senator Hensley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Goodwin on **SB 123**.

MR. PRESIDENT: The chief aim and duty of government is to protect its citizens. Thus it was with displeasure to listen to yesterday's debate on **SB 123** for there was almost no

discussion of public safety. Rather the sum and purpose of the bill seemed to be clear—it will save us money. The unraised and unanswered question remains—will this improve public safety? Clearly, the answer is “No”. Thus I can not in good conscience support **SB 123**.—TIM HUELSKAMP

Senators Brownlee, Lyon and O'Connor request the record to show they concur with the “Explanation of Vote” offered by Senator Huelskamp on **SB 123**.

MR. PRESIDENT: I support giving judges more and better options to order substance abuse treatment. I oppose using that laudable goal as justification to empty prison beds.

**SB 123** is before us today because once again budget policy is driving public safety policy. Our prisons are full—but not because Kansas locks up people willy-nilly. Our incarceration rate of 318 per 100,000 residents is 34th in the country, lower than three of our adjoining states, and well below the national average of 422. Our annual rate of inmate population growth averages 3.3 percent, which ranks us 31st among the states. Only 2 of 10 Midwestern states have inmate populations growing more slowly than ours.

To address our prison space problem, we should consider all options—not leap to the conclusion that our first choice should be to incarcerate fewer offenders.

To the extent this bill makes available real and effective treatment options for substance abusers, it is good medicine for Kansas. But to the extent this bill strips judges and prosecutors of a tool to incarcerate offenders whose continued presence in communities puts persons or property at risk, it contains a poison pill Kansas need not swallow.

Accordingly, I vote no on **SB 123**.—DEREK SCHMIDT

Senators Feleciano, Pugh, Taddiken, Tyson and Umbarger request the record to show they concur with the “Explanation of Vote” offered by Senator Schmidt on **SB 123**.

**HB 2006**, An act concerning the state inservice education opportunities act; renaming the act the education professional development act; amending K.S.A. 72-6409, 72-9601, 72-9602, 72-9603, 72-9604, 72-9605, 72-9606, 72-9607, 72-9608, 72-9609, 72-9610 and 72-9901 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.

**HB 2031**, An act concerning probate; relating to wills containing formula marital clauses; repealing K.S.A. 59-624, 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.

**HB 2159**, An act relating to vehicles; concerning the registration of certain vehicles; amending K.S.A. 8-1,134 and repealing the existing section, 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.

**HB 2166**, An act regulating traffic; concerning certain axles; amending K.S.A. 8-1908 and repealing the existing section, 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.

**HB 2196**, An act amending the Kansas storage tank act; concerning unlawful acts; amending K.S.A. 65-34,109 and 65-34,113 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.

**HCR 5007**, A Concurrent Resolution urging the Federal Energy Regulatory Commission to work to develop sufficient electric transmission facility infrastructure and design and implement regional transmission organizations and cost recovery mechanisms, 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 **Judiciary** recommends **SB 195** be amended on page 1, in line 26, by striking "Except as provided by subsection (b), the" and inserting "The"; by striking all in lines 34 through 40; in line 41, by striking "(c)" and inserting "(b)";

On page 2, in line 8, by striking "(a)"; by striking all in lines 18 through 27; in line 30, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2220**, as amended by House Committee of the Whole, be passed.

#### REPORT ON ENGROSSED BILLS

**SB 123** reported correctly engrossed March 13, 2003.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Friday, March 14, 2003.

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

PAT SAVILLE, *Secretary of the Senate*.

