

Journal of the Senate

FORTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 19, 2003—2:30 p.m.

The Senate was called to order by President Dave Kerr.

The roll was called with thirty-nine senators present.

Senator Donovan was excused.

In recognition of Armed Forces Day, several representatives of the Armed Forces were guests of the Senate.

President Kerr introduced as guest chaplain, Lt. Colonel Timothy Willoughby from Fort Riley, who delivered the invocation:

Heavenly Father we come before you with thankful hearts for the many blessings that you provide for us daily. We thank you for our great nation and for the liberties that we are privileged to enjoy. On this Military Appreciation Day we especially give thanks for the men and women of the armed services who give of themselves to protect these liberties.

We pray for our Commander-in-Chief. Guide him and empower him through your spirit to lead in a way that will honor you and will bring peace to our nation and the world. Bless him and help him to accomplish your purposes.

We pray for those of all branches of service who are residents of Kansas. They literally serve around the world and sometimes in places where we do not even know. But Lord you know. You know where they are and you know who they are and you know them by name and you know everything about them. You know their fears and concerns and you know their hopes and dreams. Lord, bless them wherever they may be at this moment. We especially pray for the service members from the Kansas Army National Guard currently on station in Bosnia and those from the Air National Guard deploying to South West Asia. Lord, thank you for people such as this who demonstrate that virtue most like your own nature, self-giving service. Your word says, "Blessed are the Peace Makers". We know that these men and women from Kansas are "Peace Makers" because the world will be a safer and more hospitable place because of their service.

We pray for those from other states who have their place of duty in Kansas. We pray for soldiers at Fort Leavenworth and Fort Riley, for airmen at McConnell Air Force Base and Forbes field and the many who serve at armories and recruiting stations and the multitude of other locations across this state. Lord, bless these service members. Guide their work and protect them.

We offer a special prayer today for the families of deployed service members. They too give of themselves in sacrificial ways. Lord, protect them and encourage them during times of separation. Bless them and comfort them and help them to understand the value of their service.

We pray for those in the Kansas state government, for the governor and those who serve you in these chambers. May they find wisdom from your mind, compassion from your heart and strength from your hands for the work that you have called them to. Bless them and enable them.

Lord, in uncertain times remind us of those certain things that we can depend upon. Help us to know that you are certainly in charge and you will never leave us or forsake us. Help us to have faith and courage and a vision for the future that will guide our service to you in the present.

We acknowledge your sovereignty and embrace your grace and accept your leadership for our lives. God, bless America but dear God, also help America to be a blessing to your world. Amen

To lead the Senate in the Pledge of Allegiance, President Kerr introduced Lt. General (Ret.) Robert Arter, Fort Leavenworth.

President Kerr introduced Colonel Jay Simpson from Fort Riley for brief remarks.

Additional guests introduced and welcomed by President Kerr and members of the Senate were Jack Walker, Deputy Garrison Commander, Fort Leavenworth; Major General Greg Gardner, Adjutant General, Topeka; Colonel Rita Broadway, Wichita; Dean Campbell, Manhattan; and John Montgomery, Junction City.

Guests were also recognized in the Gallery.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Education: **SCR 1612**.

Elections and Local Government: **SB 265**.

Judiciary: **SB 264**.

Ways and Means: **SB 261, SB 263**.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 53, SB 130**.

Also, passage of **SB 21**, as amended, **SB 43**, as amended, **SB 102**, as amended, **SB 199**, as amended.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Morris moved the Senate concur in house amendments to **SB 73**.

SB 73, An act concerning certain claims against the state, making appropriations, authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain disbursements, procedures and acts incidental to the foregoing.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT AND MR. SPEAKER: Your committee on conference on House amendments to **SB 4**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 2, in line 12, by striking "and" and inserting a comma; also in line 12, following "2003-2004" by inserting ", school year 2004-2005, school year 2005-2006 and school year 2006-2007";

And your committee on conference recommends the adoption of this report.

MELVIN NEUFELD
CLARK SHULTZ
BILL FEUERBORN
Conferees on part of House

STEPHEN R. MORRIS
DAVID ADKINS
PAUL FELECiano, JR.
Conferees on part of Senate

Senator Morris moved the Senate adopt the Conference Committee Report on **SB 4**.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Huelskamp.

Absent or Not Voting: Donovan.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT AND MR. SPEAKER: Your committee on conference on House amendments to **SB 175**, submits the following report:

The House recedes from all of its amendments to the bill;

And your committee on conference recommends the adoption of this report.

MELVIN NEUFELD
CLARK SHULTZ
ROCKY NICHOLS
Conferees on part of House

STEPHEN R. MORRIS
DAVID ADKINS
PAUL FELECiano, JR.
Conferees on part of Senate

Senator Morris moved the Senate adopt the Conference Committee Report on **SB 175**.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The Conference Committee report was adopted.

CONFIRMATION OF APPOINTMENTS

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

Senator Oleen moved the following appointment be confirmed as recommended by the Standing Senate Committee:

On the appointment to the:

Rank of Major General in the Kansas Army National Guard:

Brigadier General James R. Mason, effective on or about November 1, 2003.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The appointment was confirmed.

FINAL ACTION ON CONSENT CALENDAR

HB 2315 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

HB 2315, An act concerning the juvenile justice authority; relating to grant payments; amending K.S.A. 75-7050 and repealing the existing section.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 195, An act concerning criminal procedure; relating to the Kansas parole board; amending K.S.A. 2002 Supp. 22-3707 and 22-3709 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Gooch, Haley, Hensley.

Absent or Not Voting: Donovan.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote No on **SB 195**. Kansas has the same saddening incarceration statistic as many States. A low minority population with a disproportionately high minority prison population. The supporters offer so many excuses, or reasons, for this disparity. Inadequate education. Dysfunctional families. Limited job opportunities. Poor defense legal counsel. Substance abuse. . . . the list of excuses is endless.

Once incarcerated though, most offenders work towards release or "parole". Impressing the Parole Board, once composed of *five* members in Kansas and now, with the passage of **SB 195**, composed of only *three* members is key to parole and sometimes even an early release.

An unwritten policy in Kansas has been to always have a least one member of the Parole Board be a racial minority. It seems sort of equitable since just fewer than *half* of everyone incarcerated in Kansas *is* a racial minority at least *one* of those board members, one of those keys to release and ultimately a resumption of life, would be someone who has lived in society with a similar cultural background or with a related understanding of their world, their real world; a *true* juror of the offender's peers. . . . so to speak?

To deny one be of diverse heritage of this three member board is "borderline racism"; a term that I have never, in *Nine Years*, used.

After just so proudly pledging allegiance to our Flag, "with Liberty and Justice for All" *sticks* in my mind. . . . —DAVID HALEY

SB 237, An act relating to the redevelopment of property located within a federal enclave in Johnson and Labette counties; authorizing certain powers, including tax increment financing and sales tax revenue bonds; relating to projects of the Kansas development finance authority; amending K.S.A. 74-8902, 74-8905, 74-8921, 74-8922, 74-8923, 74-8924, 74-8925, 74-8927 and 74-8929 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 31, Nays 8, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Clark, Corbin, Huelskamp, Lee, Lyon, Pugh, Tyson, Vratil.

Absent or Not Voting: Donovan.

The bill passed, as amended.

SB 250, An act repealing the Kansas performance review act; repealing K.S.A. 75-7101, 75-7102, 75-7103, 75-7104, 75-7105 and 75-7107, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The bill passed.

SB 251, An act concerning the state finance council; voting procedures; amending K.S.A. 75-3711 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Huelskamp.

Absent or Not Voting: Donovan.

The bill passed.

HB 2018, An act concerning electricity; providing for the organization of cooperative corporations to generate electricity from renewable resources and technologies and to transmit and sell such electricity at wholesale; authorizing issuance of bonds for certain purposes, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The bill passed, as amended.

Sub HB 2064, An act concerning civil procedure; relating to filing time; amending K.S.A. 60-1102 and K.S.A. 2002 Supp. 60-1103 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Pugh.

Absent or Not Voting: Donovan.

The substitute bill passed, as amended.

HB 2158. An act concerning authorized emergency vehicles; designating wreckers, tow trucks or car carriers as authorized emergency vehicles; amending K.S.A. 8-1404, 8-2010 and 8-2010a and repealing the existing sections, was considered on final action.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The bill passed, as amended.

HB 2169. An act concerning the Kansas board of examiners in optometry; relating to the fees charged and collected by the board; amending K.S.A. 65-1505 and 65-1509 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Huelskamp, Lyon, O'Connor.

Absent or Not Voting: Donovan.

The bill passed, as amended.

HB 2207. An act concerning the state board of pharmacy; providing for registration of pharmacy technicians; amending K.S.A. 65-1642 and repealing the existing section, was considered on final action.

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

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

Nays: Huelskamp, Lyon.

Absent or Not Voting: Donovan.

The bill passed, as amended.

HB 2221. An act regulating traffic; concerning certain lighting equipment; amending K.S.A. 8-1723 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, 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.

Nays: Corbin.

Absent or Not Voting: Donovan.

The bill passed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Pugh, 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, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1830—

A RESOLUTION honoring all veterans from Kansas who served during the Korean War.

WHEREAS, Americans across this great nation are honoring veterans of the Korean War who served and fought so bravely 50 years ago. Various citizens of Kansas are commemorating the service of Kansas who fought in this war through organizations and committees such as the Heartland Heroes, 50th Anniversary Korean War Commemoration Committee; and

WHEREAS, Veterans of the many campaigns from this war battled some of the bloodiest and horrific combat this nation ever fought. This war, with the United States of America serving as the lead nation for the first United Nations military action, was fought from June of 1950 until July 1953. Battles raged from the moment communist forces invaded South Korea and legendary actions occurred such as the heroic delaying actions of Task Force Smith, The Inchon Landing and the Pusan Perimeter Breakout. United States led coalition forces fought from the southern tip of the Korean Peninsula to the Yalu River border with China; and

WHEREAS, Many great Kansans participated in these epic battles, and Kansas National Guard units were called to service for this war. These patriotic Kansans served with honor and valiant distinction, as epitomized by great Kansas heroes such as Master Sergeant Stanley T. Adams, United States Army, of Olathe, and Corporal Jack A. Davenport, United States Marine Corps, of Mission, who were awarded the Medal of Honor for gallant service during the Korean War; and

WHEREAS, 50th anniversary commemoration events will culminate this July, 50 years after the cease fire that ended most direct-action hostilities on the Korean Peninsula. A state of war still exists in Korea, but through the stubborn and defiant efforts of soldiers, marines, airmen and sailors—many from Kansas—the cease-fire has been observed for these 50 years. This war, often dubbed “the forgotten war” because it happened so close to the end of World War II, shall not be forgotten, nor shall the efforts and heroism of the many brave veterans from Kansas who fought, died and were wounded to further America’s values and freedom for the people of South Korea: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor our Kansas Korean War veterans upon this 50th anniversary of the Korean War and encourage the citizens of Kansas to study, learn and honor the service of these veterans; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to the Heartland Heroes, 50th Anniversary Korean War Commemoration Committee, and five copies to Senator Ed Pugh.

On emergency motion of Senator Pugh **SR 1830** was adopted unanimously.

Senators Oleen, Pugh, 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, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1831—

A RESOLUTION expressing our appreciation for our armed forces by observing
March 19 as Armed Forces Appreciation Day.

WHEREAS, The State of Kansas recognizes the significant impact of the armed forces on the State’s history and its continued economic and social contributions to the benefit of the State of Kansas; and

WHEREAS, The State of Kansas has a long and proud history of military service in time of peace and in time of war, having proudly given its sons and daughters into the service of the nation; and

WHEREAS, The State of Kansas is currently sending numerous guardsmen, reservists and active duty military personnel to support the war on terrorism through Operations Enduring Freedom and Noble Eagle; and

WHEREAS, Guardsmen, reservists and active duty personnel from Kansas are also, at the same time, supporting other operations, such as NATO peacekeeping in Bosnia-Her-

zegovina and Kosovo, Operations Northern and Southern Watch over Iraq, and numerous other events around the world; and

WHEREAS, Many family members of military personnel remain in Kansas where they contribute to the social, political and economic welfare of the State; and

WHEREAS, The activities of individuals and units based in the State of Kansas have brought national and international recognition to Kansas; and

WHEREAS, The various armed forces installations have a significant economic impact on the State, providing jobs and income to thousands of Kansas citizens; and

WHEREAS, The State of Kansas has established the Governor's Military Affairs Coordinating Council to facilitate statewide activities in support of the various branches of the armed forces located in Kansas; and

WHEREAS, It is in the best interest of the State to foster close and effective cooperation among the various military installations, state and local governments and the private sector to facilitate the enhancement and continued strengthening of these facilities: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we express our appreciation for those serving in the armed forces of our nation by observing March 19 as Armed Forces Appreciation Day.

On emergency motion of Senator Oleen **SR 1831** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2055** be passed.

Also **HB 2245** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Commerce** recommends **HB 2332**, as amended by House Committee, be passed.

Committee on **Elections and Local Government** recommends **HB 2288**, as amended by House Committee of the Whole, be amended on page 3, in line 26, after "card", by inserting "or other valid form of identification approved by the secretary of state"; on page 9, in line 3, by striking "a" and inserting "the voter's"; also in line 3, by striking "or" and inserting a comma; in line 4, after "card" by inserting ", registration card issued by the county election officer"; in line 5, before the semicolon, by inserting "which meet or exceed the requirements of the Help America Vote Act of 2002, Public Law 107-252";

On page 10, after line 18, by inserting the following:

"(g) The secretary of state is hereby authorized to adopt such rules and regulations as may be necessary to implement the provisions of this section."

On page 11, in line 33, by striking "remaining" and inserting "in line"; in line 36, before the period, by inserting "unless the ballot is challenged for a separate reason pursuant to K.S.A. 25-414 and amendments thereto"; by striking all in lines 39 and 40;

On page 12, in line 9, by striking "remaining" and inserting "in line"; in line 12, before the period, by inserting "unless the ballot is challenged for a separate reason pursuant to K.S.A. 25-414 and amendments thereto"; by striking all in lines 15 and 16; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2224** be amended on page 7, following line 17, by inserting the following:

"Sec. 2. K.S.A. 9-1713 is hereby amended to read as follows: 9-1713. Except as otherwise provided by law, *in order to promote safe and sound practices for entities regulated by the state bank commissioner*, the ~~state bank~~ commissioner shall adopt such rules and regulations as shall be necessary to ~~carry out the intent and purposes~~ *implement the provisions* of K.S.A. 9-542, and amendments thereto, commonly known as the state banking code. All rules and regulations of general application shall first be submitted by the commissioner to the state banking board for its approval and upon approval shall be filed as provided by article 4 of chapter 77 of the Kansas Statutes Annotated."

By renumbering existing sections 2 and 3 as sections 3 and 4, respectively;

Also on page 7, in line 18, by striking "is" and inserting "and 9-1713 are"; in line 20, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 10, following "9-1101" by inserting "and 9-1713"; also in line 10, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2155**, as amended by House Committee, be amended on page 1, in line 16, before the comma, by inserting "or subsection (d)"; in line 32, by striking "(1)"; in line 36, by striking "(2)";

On page 2, in line 1, before "Any" by inserting the following:
 "(d)";

Also on page 2, in line 3, by striking "(A)" and inserting "(1)"; in line 4, by striking "(B)" and inserting "(2)"; in line 5, by striking "(C)" and inserting "and (3)"; in line 6, by striking all after "applying"; in line 7, by striking all before the comma and inserting ", upon application"; in line 10, by striking "(d)" and inserting "(e)"; in line 14, by striking "(e)" and inserting "(f)";

On page 3, in line 7, before "(3)" by inserting "and"; in line 8, by striking all after "applying"; in line 9, by striking all before the comma and inserting ", upon application"; and the bill be passed as amended.

Also **HB 2161**, as amended by House Committee, be amended on page 3, in line 32, after the semicolon, by inserting "and"; in line 35, by striking "; and"; by striking all in lines 36 and 37; in line 38, by striking all before the period;

On page 4, in line 29, after the semicolon, by inserting "and"; in line 32, by striking "; and"; by striking all in lines 33 and 34; in line 35, by striking all before the period; and the bill be passed as amended.

Committee on **Transportation** recommends **Substitute for HB 2073; HB 2113**, as amended by House Committee of the Whole, be passed.

Committee on **Utilities** recommends **HB 2037**, as amended by House Committee of the Whole, be amended on page 1, in line 20, by striking "2004" and inserting "2005"; in line 25, by striking "2004" and inserting "2005"; by striking all in lines 26 through 42; following line 43, by inserting:

"New Sec. 2. (a) As used in this section:

(1) "Excessive compensation" shall have the meaning ascribed to such term as provided in rules and regulations adopted by the state corporation commission.

(2) "Public utility" has the meaning provided by K.S.A. 66-104, and amendments thereto.

(3) "Compensation" has the same meaning as provided by 17 CFR 229.402, as in effect on July 1, 2003, or any later version as established in rules and regulations adopted by the state corporation commission.

(b) No public utility providing excessive compensation to any employee shall recover the value of the excess from the utility's ratepayers.

(c) The state corporation commission shall allow a public utility to recover from ratepayers only that employee compensation, including compensation of executives and senior management employees, which the commission finds:

(1) Benefits ratepayers;

(2) is justified by the productivity, cost savings, quality of service, overall performance and financial condition of the utility;

(3) is reasonable compensation in comparison to regional norms in the utility industry;

(4) was paid within any test period, for work performed during the test period;

(5) will not result in unjust or unreasonable rates; and

(6) is otherwise not excessive compensation.

(d) The state corporation commission shall review compensation of a public utility's employees as a part of any proceeding before the commission which may result in a change of the utility's rates. The commission shall deny recovery from ratepayers that amount of the value of any compensation which the commission finds is excessive compensation or does not meet the conditions stated in subsection (c), by excluding that amount from the utility's cost of service, or otherwise excluding it from rates. Whether shareholders have approved the compensation in question shall not be considered by the commission in determining whether compensation is excessive compensation. A public utility shall have the burden of proving that compensation of current, former and departing employees, including compensation of executives and senior management employees, is not excessive compen-

sation and that such compensation meets the conditions stated in subsection (c) before recovery of such compensation shall be allowed in rates.

(e) A publicly traded public utility shall file a clear, concise and understandable disclosure statement on or before April 1 of each year with the state corporation commission disclosing the compensation ranges of the officers of the public utility for the preceding calendar year. The disclosure statement required to be filed under this subsection shall be open for inspection by any person in accordance with K.S.A. 45-218, and amendments thereto.

(f) Any federal or state tax liabilities of any employee or public utility for compensation considered excessive under this section shall not reduce the amount that is to be excluded from the utility's cost of service or otherwise excluded from rates.

(g) The provisions of this section shall apply to any proceedings pending before the state corporation commission on the effective date of this act and to all proceedings filed with the commission on or after that date.

(h) The state corporation commission may adopt reasonable rules and regulations to implement the provisions of this section.”;

On page 2, in line 1, by striking “and 66-1233 are” and inserting “is”;

In the title, in line 12, following “costs” by inserting “; concerning certain employee compensation”; in line 13, by striking “and 66-1233”; in line 14, by striking “sections” and inserting “section”; and the bill be passed as amended.

Also **HB 2374**, as amended by House Committee, be amended on page 1, following line 42, by inserting the following:

“(5) the security cost recovery charge shall be allocated and added to all wholesale and retail rates and future contracts. Any contract existing on the effective date of this act, which does not specifically prohibit the addition of such charges, shall have such charges added.”;

On page 2, in line 1, by striking “(5)” and inserting “(6)”; in line 4, by striking “(6)” and inserting “(7)”; in line 7, by striking “(7)” and inserting “(8)”; in line 8, by striking “ $\frac{1}{3}$ ” and inserting “ $\frac{1}{2}$ ”; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 195, SB 237 reported correctly engrossed March 19, 2003.

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 Barnett in the chair.

On motion of Senator Barnett the following report was adopted:

Recommended **SB 260; HB 2016, HB 2017, HB 2089, HB 2191, HB 2193** be passed.

SCR 1609, SCR 1610 be amended by adoption of the committee amendments, and the resolutions be adopted as amended.

HB 2106 be amended by motion of Senator Jordan as amended by House Committee, on page 2, in line 4, by striking “and housing”; in line 33, following “commerce” by striking “and housing”, and **HB 2106** be passed as amended.

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 260; SCR 1609, SCR 1610; HB 2016, HB 2017, HB 2089, HB 2106, HB 2191, HB 2193** were advanced to Final Action and roll call.

SB 260. An act concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; employer contribution rates; issuance of revenue bonds by the Kansas development finance authority for funding certain liability of system; amending K.S.A. 74-4920 and repealing the existing section.

On roll call, the vote was: Yeas 29, Nays 9, Present and Passing 1, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Buhler, Bunten, Corbin, Downey, Emler, Feleciano, Gilstrap, Goodwin, Harrington, Hensley, Jackson, Jordan, Kerr, Lee, Morris, Oleen, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Brownlee, Clark, Haley, Huelskamp, Lyon, O'Connor, Pugh, Steineger, Tyson.

Present and Passing: Gooch.

Absent or Not Voting: Donovan.

The bill passed.

SCR 1609, A Concurrent Resolution urging the United States department of agriculture to enter into an agreement with the state of Kansas in which landowners who discover sericea lespedeza on CRP lands are not penalized.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The resolution was adopted, as amended.

SCR 1610, A Concurrent Resolution urging that Federal noxious weed cost share dollars be made available for the control of noxious weeds in the state of Kansas.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The resolution was adopted, as amended.

HB 2016, An act concerning the Kansas juvenile justice code; relating to juvenile corrections officers; training and powers and duties thereof; amending K.S.A. 38-1602 and 74-5602 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The bill passed.

HB 2017, An act concerning the legislature; relating to the joint committee on corrections and juvenile justice oversight, expiration thereof; amending K.S.A. 46-2801 and repealing the existing section.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The bill passed.

HB 2089, An act concerning juvenile justice; relating to juvenile corrections advisory boards; amending K.S.A. 75-7044 and repealing the existing section.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The bill passed.

HB 2106, An act concerning the council on travel and tourism; amending K.S.A. 74-9001 and repealing the existing section.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The bill passed, as amended.

HB 2191, An act relating to port authorities; concerning certain powers; amending K.S.A. 12-3406 and 12-3415 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, 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.

Absent or Not Voting: Donovan.

The bill passed.

HB 2193, An act relating to certificates of title; concerning certain fees and the disposition thereof; amending K.S.A. 2002 Supp. 8-135, 8-135a, 8-139, 8-145, 8-170, 8-171, 8-198, 58-4204 and 74-2013 and repealing the existing sections.

On roll call, the vote was: Yeas 31, Nays 8, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Haley, Harrington, Huelskamp, Lyon, O'Connor, Pugh, Salmans, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Thursday, March 20, 2003.

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

PAT SAVILLE, *Secretary of the Senate*.

