

Journal of the Senate

FIFTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, April 3, 2002—9:30 a.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,

When things are not going
Like we thought they would,
When people don't act
Like we think they should.

When we're treated unfairly
and on our dreams they trod,
We start looking for reasons
And blame it on God.

"How can You let people
Do this," we shout.
Our faith starts to waiver
And we start to doubt.

Then it's time to remind us
We don't have the prescription;
And we're not qualified
To write God's job description.

It's easy to trust You
When we see eye-to-eye,
And we reach a consensus
Each time we try.

But a faith that falters
When things start to stall,
And we can't all agree,
Is not faith at all.

Faith never falters
When the going gets tough.
True faith remains strong
When the road's smooth or rough.

So we plead for the faith
That does not depend
On the way being easy,
But stays true to the end.

I ask this in the name of Christ,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was introduced and read:

SENATE CONCURRENT RESOLUTION No. 1626—

By Senators Kerr, Oleen and Hensley

A CONCURRENT RESOLUTION relating to the 2002 regular session of the legislature; extending such session beyond 90 calendar days; and providing for adjournment thereof.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the Senate and two-thirds of the members elected to the House of Representatives concurring therein: That the 2002 regular session of the legislature shall be extended beyond 90 calendar days; and

Be it further resolved: That the legislature shall adjourn at the close of business of the daily session convened on April 12, 2002, or at the close of business of the daily session convened on April 13, 2002, and shall reconvene at 10:00 a.m. on May 1, 2002; and

Be it further resolved: That the legislature may adjourn and reconvene at any time during the period on and after May 1, 2002, to May 31, 2002, but the legislature shall reconvene at 10:00 a.m. on May 31, 2002, at which time the legislature shall continue in session and shall adjourn *sine die* at the close of business on May 31, 2002; and

Be it further resolved: That the secretary of the senate and the chief clerk of the house of representatives and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

Be it further resolved: That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in subsections (a) and (b) of K.S.A. 46-137a for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

Be it further resolved: That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the Legislative Coordinating Council or by the President of the Senate or the Speaker of the House of Representatives and members of a conference committee attending a meeting of the conference committee authorized by the President of the Senate and the Speaker of the House of Representatives during any period of adjournment for which members are not authorized compensation and allowances pursuant to K.S.A. 46-137a shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212 except that the mileage allowance shall be limited during any such period of adjournment to one full trip by the usual route in going to and returning from an authorized meeting.

On emergency motion of Senator Oleen **SCR 1626** was adopted by a $\frac{2}{3}$ constitutional majority on a voice vote.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **HB 2956**.

COMMUNICATIONS FROM STATE OFFICERS**KANSAS DEPARTMENT ON AGING**

March 28, 2002

Connie Hubbell, Secretary of Aging, submitted the 2001 Kansas Department on Aging Annual Report.

KANSAS DEPARTMENT OF COMMERCE AND HOUSING

Business Development Division

March 29, 2002

As required by K.S.A. 74-50,118(b), Lt. Governor/Secretary Gary Sherrer submitted the Annual Report on the Kansas Enterprise Zone Program.

The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2797**, **HB 2819**, **HB 3000**.

Passage of **SB 624**.

Also, passage of **SB 506**, as amended.

The House nonconcurrs in Senate amendments to Substitute **HB 2057** and requests a conference and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2665** and requests a conference and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2666** and requests a conference and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2718** and requests a conference and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2802** and requests a conference and has appointed Representatives O'Neal, Loyd and Pauls as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **Senate Substitute for HB 2831** and requests a conference and has appointed Representatives Benlon, Krehbiel and Storm as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 402** and has appointed Representatives Tanner, Lloyd and Reardon as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 459** and has appointed Representatives Tomlinson, Dreher and Kirk as conferees on the part of the House.

The House announces the appointment of Representative Feuerborn to replace Representative Gilbert as a conferee on **HB 2709**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2797, **HB 2819**, **HB 3000** were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Umbarger the Senate nonconcurrred in the House amendments to **SB 403** and requested a conference committee be appointed.

The President appointed Senators Umbarger, Vratil and Downey as a conference committee on the part of the Senate.

On motion of Senator Morris the Senate nonconcurrred in the House amendments to **SB 619** 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.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **HB 3021** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

REPORT ON ENGROSSED BILLS

SB 375, **SB 440** reported correctly engrossed April 3, 2002.

REPORT ON ENROLLED BILLS

Sub SB 339; SB 391, SB 407, SB 416, SB 433, SB 449, SB 463, SB 477, SB 490, SB 491, SB 548, SB 630, SB 642 reported correctly enrolled, properly signed and presented to the Governor on April 2, 2002.

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 Allen in the chair.

Recommended **SB 647, SB 653, SB 654** be amended by adoption of the committee amendments, and the bills be passed as amended.

Sub SB 603 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Barnett on page 2, line 19, by striking "gifts, donations, grants," and **Sub SB 603** be passed as amended.

HB 2690 be passed over and retain a place on the calendar.

The Committee rose and reported progress (see Committee of the Whole, afternoon session).

On motion of Senator Oleen, the Senate recessed until 2:30 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Kerr in the chair.

MESSAGE FROM THE GOVERNOR

April 3, 2002

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as Governor of the State of Kansas as of April 3, 2002, pursuant to law.

BILL GRAVES
Governor

Member, University of Kansas Hospital Authority, Eric T. Jager, pursuant to the authority vested in me by KSA 76-3304, effective upon the date of confirmation by the Senate to serve a three-year term ending March 15, 2005.

Member, University of Kansas Hospital Authority, Charles T. Sunderland, pursuant to the authority vested in me by KSA 76-3304, effective upon the date of confirmation by the Senate to serve a three-year term ending March 15, 2005.

MESSAGE FROM THE HOUSE

Announcing, the House accedes to the request of the Senate for a conference on **SB 403** and has appointed Representatives Benlon, Krehbiel and Storm as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 619** and has appointed Representatives Wilk, Neufeld and Nichols as conferees on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **SB 506** and requested a conference committee be appointed.

The President appointed Senators Donovan, Salmans and Gooch as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **Sub HB 2057**.

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

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2665**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2666**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2718**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2802**.

The President appointed Senators Vratil, Adkins and Goodwin as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **S Sub for HB 2831**.

The President appointed Senators Umbarger, Vratil and Downey as conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on Commerce begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Kansas Technology Enterprise Corporation, Board of Directors: K.S.A. Supp. 74-8101

Douglas C. Brush, term expires January 15, 2006

David E. Shulenburg, term expires January 15, 2006

Committee on Judiciary begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Board of Indigents' Defense Services: K.S.A. 22-4519

J. Roy Holliday, Jr., term expires January 15, 2005

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for further consideration of bills on the calendar under the heading of General Orders with Senator Allen in the chair.

On motion of Senator Allen the morning report and the following afternoon report were adopted:

HB 2690 be amended by adoption of the committee amendments.

Senator Hensley moved to amend **HB 2690** as amended by Senate Committee, on page 1, in line 19, by striking "11" and inserting "12";

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

"Sec. 1.3 (a) Each contract entered into by a state agency for any nonfederal aid, public works project for a scientific research and development facility under the university research and development enhancement act shall be based on bid or contract specifications prescribing and requiring that employees of any contractor or subcontractor shall be paid not less than the hourly wages, including fringe benefits, paid to corresponding classes of laborers and mechanics employed on similar projects in the county where the project is to

be performed. Such minimum wage shall be the wage paid to the majority of the laborers or mechanics, unless the same wages are not paid to a majority, in which case the minimum wage shall be the average wages paid, weighted by the total employed in the classification. In the alternative, the minimum wage shall be that determined under federal law which would be required to be paid on federally-funded projects at the location of the public works project.

(b) Employees employed by contractors or subcontractors in the execution of any nonfederal aid, public works project contract subject to this section with any state agency shall be paid not less than the wages as determined pursuant to subsection (a).

(c) First preference for any contract for a public works project for a scientific research and development facility under the university research and development enhancement act shall be contractors employing exclusively Kansas resident employees.

(d) As used in this section, "state agency" means the board of regents, the subsidiary corporation of the board of regents formed pursuant to section 5, and amendments thereto, any firm performing construction management at-risk services under section 10, and amendments thereto, or any state educational institution.;

And by renumbering the remaining section accordingly

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 12, Nays 28, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Corbin, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Hensley, Lee, Praeger, Steineger.

Nays: Adkins, Allen, Barnett, Brownlee, Brungardt, Clark, Donovan, Emler, Harrington, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The motion failed and the amendment was rejected.

The Committee recommended **HB 2690**, as amended by the adoption of the committee amendments, 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 **Sub SB 603; SB 647, SB 653, SB 654; HB 2690** were advanced to Final Action and roll call.

Sub SB 603, An act concerning prescription drugs under the medicaid program; creating the state medicaid drug formulary committee and authorizing a state medicaid preferred drug formulary.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Downey, Feleciano, Huelskamp, Salmans.

The substitute bill passed, as amended.

SB 647, An act concerning the Kansas higher education coordination act; relating to the financing of postsecondary educational institutions and the powers, duties and functions of the state board of regents; amending K.S.A.2001 Supp. 71-620, 72-6503, 74-3201b, 74-3202c, 74-3202d, 74-3205a, 74-3205b, 74-3205c and 74-3205d and repealing the existing sections.

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, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 653. An act concerning crimes and punishment; relating to prisoners and offenders; cost of maintenance; amending K.S.A. 19-1930 and repealing the existing section.

On roll call, the vote was: Yeas 15, Nays 25, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brungardt, Corbin, Huelskamp, Jackson, Jenkins, Kerr, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schodorf, Teichman.

Nays: Adkins, Allen, Barone, Brownlee, Clark, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jordan, Lee, Lyon, Schmidt, Steineger, Taddiken, Tyson, Umbarger, Vratil, Wagle.

A constitutional majority having failed to vote in favor of the bill, **SB 653** did not pass.

SB 654. An act concerning municipal funded insurance pools; amending K.S.A. 12-2621 and K.S.A. 2001 Supp. 44-585 and repealing the existing sections.

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, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

HB 2690. An act concerning the state board of regents; relating to scientific research and development facilities for educational institutions under the control and supervision of the state board of regents.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Huelskamp, Lyon, O'Connor.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT, I vote YES on **HB 2690**.

The need for increased funding for research in Kansas is indisputable, and for that reason I feel we are doing the right thing by approving this bill. However, I question the timing. We are facing the largest budget shortfall in state history, and many proposals have already been considered to balance that budget by cutting base funding for Regents institutions.

If we damage the institutions as a whole by slashing their budgets, how successful will new research facilities be?

In fact, even the Board of Regents does not consider this bill their top priority-funding the base budget, and fulfilling our promise in funding **SB 345** is their top priority.

Research is, essentially, building for the future. I hope that in passing this bill, we do not create the unwanted negative effect of damaging the future of our Regents schools.—

ANTHONY HENSLEY

Senators Barone, Downey, Feleciano, Gilstrap, Goodwin and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **HB 2690**.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Thursday, March 4, 2002.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

