

# Journal of the Senate

THIRTY-THIRD DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, February 28, 2008—9:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

In recognition of Armed Forces Appreciation Day, President Morris introduced as guest chaplain, Lt. Colonel Brent Causey, Senior Chaplain, Big Red One, Fort Riley, Kansas, who delivered the invocation:

Our Gracious Heavenly Father,

We thank you for liberty and freedom that we enjoy in this great nation of ours. For the women and men who serve the nation through the armed forces. May we always remain strong and stand for what is good and right in the world. Give continuous wisdom to these outstanding men and women who serve our country in the Kansas Senate. Bless them as they have taken the responsibility for our State and Nation's welfare. Thank you for their continuing the practice of our forefathers by stepping up in taking the leadership and commitment of putting the "Peoples" interest ahead of their own. As we lift up our leaders of the greatest Country in the world, let us be constantly reminded of those who are currently on the front lines of freedom. Protect our service men and women, be their strength and their shield. Stand beside their loved ones during this time of separation and be their comfort and foundation of support. As the senate convenes this morning, we thank you for your presence.

In Your Holy Name We Pray,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

As part of Armed Forces Appreciation Day, President Morris also recognized the Governor's Military Council and the Tuskegee Airmen.

President Morris introduced Major Stephen Gilberson, Fort Leavenworth, Kansas, who delivered the following remarks:

Ladies and Gentlemen, Distinguished Guests, and fellow Soldiers, Good Morning. It is my distinct privilege and honor to have the opportunity to represent the U.S. Army Command and General Staff College this morning. I know we are observing Armed Forces Appreciation Day, but I want to make it clear that the appreciation goes both ways. This morning, I would like to say "Thank you," and convey the Army's appreciation for you do in support of our Soldiers. Thank you for your service, thank you for your commitment, and thank you for your continued support.

The leadership and citizens of Kansas, show constant, unwavering support to our Soldiers, the Army and this great Nation. The recently initiated Wounded Warrior Education Initiative Program, a partnership between the Army and the University of Kansas, gives wounded warriors the opportunity to continue their service and pursue higher education. Another example is the Kansas Military Family Support Program, a group of organizations and individual volunteers, that supports military families while service members are deployed.

I wanted to come here personally and let you know your support echoes throughout the halls of the Lewis and Clark Center at the Command and General Staff College. Again, "Thank you" for your continuing support, and especially for your concern and commitment to our families and our wounded warriors. This support allows us to answer our Nation's call knowing our families and our wounded warriors will always be taken care of and are in great hands. I appreciate this opportunity to address you this morning, thank you for your service.

#### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

**SB 661**, An act concerning retirement; relating to the Kansas public employees retirement system and systems thereunder; postretirement benefit payments; amending K.S.A. 2007 Supp. 74-4920 and repealing the existing section, by Committee on Ways and Means.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **HB 2908**.

Elections and Local Government: **HB 2648**; **Sub HB 2757**; **HB 2804**.

Federal and State Affairs: **SB 659**.

Public Health and Welfare: **HB 2570**, **HB 2695**.

Ways and Means: **SB 657**, **SB 658**, **SB 660**.

#### CHANGE OF REFERENCE

The President withdrew **SB 535**, **SB 601**, **SB 624**, **SB 629** from the Committee on **Ways and Means**, and re-referred the bills to the Committee on **Financial Institutions and Insurance**.

The President withdrew **SB 4** from the Committee on **Ways and Means**, and re-referred the bill to the Committee on **Transportation**.

The President withdrew **SB 568** from the Committee on **Ways and Means** and re-referred the bill to the Committee on **Public Health and Welfare**.

The President withdrew **SB 559** from the Committee on **Ways and Means** and re-referred the bill to the Committee on **Agriculture**.

The President withdrew **SB 452**, **SB 606** from the Committee on **Ways and Means**, and re-referred the bills to the Committee on **Natural Resources**.

#### MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **House Substitute for SB 359**.

#### REMOVE FROM CONSENT CALENDAR

An objection having been made to **SB 614** appearing on the Consent Calendar, the President directed the bill be removed and placed on the calendar under the heading of General Orders.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**SB 415**, An act concerning postsecondary educational institutions; relating to deferred maintenance; amending K.S.A. 76-755 and K.S.A. 2007 Supp. 72-4479, 76-7,105, 76-7,117, 76-7,120 and 79-32,261 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, Lynn, McGinn, Morris, Ostmeier, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Journey, Palmer, Pyle.

The bill passed, as amended.

## EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **SB 415**. We are all very much aware and concerned about the fiscal condition of our state budget. We have tough choices to make on any and all spending bills this year. **SB 415** is a bill that addresses an important priority for the future of young people in our state. I have spent countless hours visiting with constituents in my district and the number one issue on their minds is the future of jobs. Our technical schools serve as a conduit for those young people desiring to become employed in meaningful and well paying jobs that might not chose to attend a four year college or university. Funding the infrastructure of our technical colleges is equivalent to funding the future of job creation in Kansas. For that reason Mr. President, I vote yes on **SB 415**. —JULIA LYNN

**SB 443**, An act concerning the long-term care partnership program, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 474**, An act concerning wildlife and parks; relating to controlled shooting areas; field trials; amending K.S.A. 32-919 and 32-954 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 498**, An act concerning insurance; relating to the amount of certain penalties; amending K.S.A. 40-2,125 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**Sub SB 501**, An act concerning tourism; creating the Kansas tourism corporation and providing for the powers and duties thereof; transferring the powers and duties of the division of travel and tourism development to the Kansas tourism corporation; providing for tourism development and funding; amending K.S.A. 73-2103 and K.S.A. 2007 Supp. 73-2402, 73-2404 and 74-5005 and repealing the existing sections; also repealing K.S.A. 74-5032, 74-5032a and 74-5090 and K.S.A. 2007 Supp. 74-5089, 74-5091, 74-9001, 74-9002, 74-9003, 74-9004 and 74-9005, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Jordan, Journey, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson, Wysong.

Nays: Haley, Hensley, Huelskamp, Kelly, Lee, Pyle, Vratil.

The substitute bill passed.

## EXPLANATION OF VOTE

MR. PRESIDENT: I vote “no” on **Sub for SB 501**. As much as I, and others, would like to believe it so . . . Kansas’ discretionary budget for tourism is *not* “as big as (we) think.”—DAVID HALEY

MR. PRESIDENT: I support the creation of a Kansas tourism corporation as provided in **Sub for SB 501**. It is an excellent idea that will help promote tourism in Kansas. However, I cannot support this bill because it calls for additional discretionary spending of between \$4,000,000 and \$12,000,000 each year over the next several years. The State’s budget is very tight over the next few years. We cannot afford additional discretionary spending.—JOHN VRATIL

Senator Hensley requests the record to show he concurs with the “Explanation of Vote” offered by Senator Vratil on **Sub for SB 501**.

**SB 545**, An act relating to civil procedure; concerning health insurance coverage information for children in divorce action; amending K.S.A. 2007 Supp. 60-1610 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 558**, An act concerning irrigation districts; pertaining to the conduct of elections; amending K.S.A. 42-706 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 563**, An act concerning health insurance; pertaining to utilization review; amending K.S.A. 40-22a07 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 565**, An act relating to the state fair board; concerning background investigations for certain employees; amending K.S.A. 2-205 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 570**, An act concerning telecommunications; relating to the Kansas universal service fund; amending K.S.A. 66-127 and 66-136 and K.S.A. 2007 Supp. 66-2005 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 580**, An act relating to housing; establishing the weatherization assistance program account within the state housing trust fund; relating to the transfer of funds in the state general fund to the weatherization assistance program account; amending K.S.A. 2007 Supp. 74-8959 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 581**, An act amending the revised Kansas juvenile justice code; relating to juvenile offenders; amending K.S.A. 2007 Supp. 38-2302 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 588**, An act concerning crimes and punishment; relating to traffic in contraband in a correctional institution or care and treatment facility; amending K.S.A. 21-3826 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**Sub SB 596**, An act relating to the board of healing arts; concerning cosmetic or aesthetic purpose included in the practice; amending K.S.A. 65-2869 and K.S.A. 2007 Supp. 65-2802 and 65-2872 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The substitute bill passed.

**HB 2071**, An act relating to highways; designating certain memorial highways, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**HB 2622**, An act relating to motor vehicles; concerning the display of license plates; amending K.S.A. 2007 Supp. 8-133 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.  
The bill passed.

#### **INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senator Pine introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1817—

A RESOLUTION congratulating and commending Baker University upon its sesquicentennial.

WHEREAS, On February 12, 1858, the governor of the Kansas Territory signed the Baker University charter, which had been approved by the legislature, making it the first university, and now the oldest four year college, in Kansas; and

WHEREAS, Baker University, born in the crucible of the pre-Civil War skirmishes that lead to the moniker “Bleeding Kansas”, was founded by a group of Methodists hoping to bring education to the fledgling Kansas-Nebraska Territory, and was named for Osmon C. Baker, the Kansas-Nebraska bishop of the Methodist Episcopal Church; and

WHEREAS, Since Baker’s first president, Werter Renick Davis, opened the school’s doors on November 12, 1858, in the flagship structure now known as the Old Castle, Baker University has honored its goal of delivering excellence in the classroom; and

WHEREAS, In keeping with its mission to serve both recent high school graduates and the life-long learning needs of adults, Baker University is comprised of four schools: The College of Arts and Sciences, at the main campus in Baldwin City, has its own educational goals and offers the wide selection in courses of study usually associated with a superior undergraduate liberal arts education; the School of Professional and Graduate Studies, with its educational goals directed to the needs of adult students, offers educational programs in Kansas City, Wichita, Topeka and other locations in Kansas and Missouri; the School of Education offers undergraduate degrees at the Baldwin City campus, as well as graduate programs and the university’s first doctoral program at the graduate campuses; and the School of Nursing, located at Stormont-Vail HealthCare in Topeka, prepares recent high school graduates and adult students for the nursing profession; and

WHEREAS, What began as an effort to civilize the rough prairie existence through education, culture and faith is now a comprehensive university of nearly 4,000 students across six campuses and at other locations in Kansas and Missouri, including 942 undergraduate students at the College of Arts and Sciences, 155 students at the School of Nursing and 2,862 students enrolled in graduate programs at the School of Professional and Graduate Studies and the School of Education; and

WHEREAS, Baker University continues to build on the tradition of academic excellence with accomplished faculty, bright and motivated students and a visionary commitment to innovation. Together, these elements create an interactive learning environment that promotes participation and sparks ideas; and

WHEREAS, Baker University’s long history of distinguished alumni includes 18,864 living alumni, 10,198 of whom live in Kansas, 872 graduates from the nursing program, four Rhodes Scholars, a Pulitzer Prize winner and several Kansas Teacher of the Year award recipients; and

WHEREAS, Baker University remains a proud promoter of an integral part of life in Baldwin City, and in honor of the university’s sesquicentennial, Baker students have banded together to raise \$60,000 to build a Habitat for Humanity House, which will commemorate the university’s long history of community service: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we salute Baker University, its founders and those who have seen it through 150 years of rich and sometimes dramatic history, and that we congratulate and commend Baker University for providing students with an excellent education through innovation and exceptional instruction; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Senator Pine for presentation to Baker University President Pat Long.

On emergency motion of Senator Pine **SR 1817** was adopted unanimously.

Senator Pine introduced the following guests and senators joined him in honoring them with a standing ovation: Dr. Dan Lambert, Dr. Patricia Long, Dr. Neal Malicky and Dr. Ralph Tamer.

#### COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator McGinn in the Chair.

On motion of Senator McGinn the following report was adopted:

On emergency motion of Senator D. Schmidt **SB 614** was moved to the top of the calendar under the heading of General Orders.

Recommended **SB 579**, **SB 582**, **SB 614**, **SB 640** be passed.

**SB 555**, **SB 586** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 469** be amended by adoption of the committee amendments and be further amended by motion of Senator Lee, on page 3, in line 40, after the period, by inserting the following: "If a local exchange carrier is relieved of its carrier of last resort obligation under paragraph (2) or (4) of subsection (c), the owner or developer shall notify all occupants and any subsequent owner of the specific real property of the following: (1) That the incumbent local exchange carrier does not have facilities installed to serve the specific real property, and that such carrier has been relieved of its carrier of last resort obligations; and (2) the name of the person that will be providing local telecommunications service to the real property, and the type of technology that will be used to provide such service."; and **SB 469** be passed as further amended.

**SB 560** be amended by adoption of the committee amendments and be further amended by motion of Senator Teichman on page 2, in line 17, before "includes" by inserting "shall have the meaning ascribed to it in K.S.A. 40-953 and amendments thereto. The term "unfairly discriminatory"

**SB 560** be further amended by motion of Senator Barone, on page 1, in line 17, by striking "or decrease"; in line 18, after "12%" by inserting "or a decrease in any amount"; and **SB 560** be passed as further amended.

**SB 562** be amended by adoption of committee amendments and be further amended by motion of Senator Huelskamp, as amended by Senate Committee, on page 1, in line 15, by striking "shall" and inserting "may"; in line 16, after "and" by inserting "hospital based";

On page 2, in line 24, after "(f)" by inserting "(1)"; in line 25, by striking "(1)" and inserting "(A)"; in line 27, by striking "(2) "Long-term care unit" and inserting "(B) "Hospital based long-term care unit"; in line 29, by striking "(A)" and inserting "(i)"; in line 30, by striking "(B)" and inserting "(ii)"; in line 33, by striking "(3)" and inserting "(C)"; following line 34, by inserting:

"(2) Swing beds within the above facilities shall be exempt from the provisions of this act."; and **SB 562** be passed as further amended.

The committee report on **SB 383**, recommending a **Sub SB 383** be adopted and the substitute bill be passed.

The committee report on **SB 453**, recommending a **Sub SB 453** be adopted and the substitute bill be passed.

**SB 615** be passed over and retain a place on the calendar.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2632, HB 2707, HB 2721; Substitute HB 2725; HB 2727, HB 2735, HB 2772, HB 2827.**

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2632, HB 2707, HB 2721; Substitute HB 2725; HB 2727, HB 2735, HB 2772, HB 2827** were thereupon introduced and read by title.

On motion of Senator D. Schmidt, the Senate recessed until 2:15 p.m.

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**AFTERNOON SESSION**

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

**POINT OF PERSONAL PRIVILEGE**

Senator Betts, rose on Point of Personal Privilege to introduce guests Dr. Donald Jackson and former Senator Rip Gooch, who were recognized with a standing ovation.

Senator Petersen, rose on Point of Personal Privilege to introduce guests Colonel John Zazworsk, his wife, Monica Zazworsky, and their children Daniel and Jenny, who were recognized with a standing ovation. Senator Petersen's son, Zach, was also introduced.

**INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills was introduced and read by title:

**SB 662**, An act concerning retirement and pensions; relating to the Kansas public employees retirement act of 2009; amending K.S.A. 74-4919b and 74-4988 and K.S.A. 2007 Supp. 74-49,202, 74-49,203, 74-49,207 and 74-49,208 and repealing the existing sections, by Joint Committee on Pensions, Investments and Benefits.

**SB 663**, An act concerning retirement; relating to the Kansas public employees retirement system and systems thereunder; retirement plan compliance with federal law; amending K.S.A. 12-5005, 13-14a02, 13-14a10, 13-14a13, 14-10a02, 14-10a13, 20-2601, 20-2623, 72-5501, 74-4912, 74-4919b, 74-4998c, 74-49,105, 74-49,122, 74-49,123 and 74-49,124 and K.S.A. 2007 Supp. 74-4902 and repealing the existing sections; also repealing K.S.A. 74-4917a, by Joint Committee on Pensions, Investments and Benefits.

**SB 664**, An act concerning sales taxation; relating to refunds; certain purchases of telecommunications machinery and equipment, by Committee on Ways and Means.

**CHANGE OF REFERENCE**

The President withdrew **SB 445, SB 550, SB 578, SB 617, SB 636** from the Committee on **Assessment and Taxation** and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 497** from the Committee on **Assessment and Taxation** (Jointly) and the Committee on **Commerce** (Jointly) and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 541** from the Committee on **Health Care Strategies** and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 540** from the Committee on **Financial Institutions and Insurance** and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 532, SB 623** from the Committee on **Education** and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 621** from the Committee on **Elections and Local Government** and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 313, SB 409, SB 482, SB 483, SB 484, SB 493, SB 589, SB 590, SB 591, SB 600** from the Committee on **Judiciary** and referred the bills to the Committee on **Ways and Means**.



The President withdrew **SB 495, SB 525, SB 592** from the Calendar under the heading of General Orders and referred the bills to the Committee on **Ways and Means**.

#### FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **Sub SB 383, Sub SB 453; SB 469, SB 555, SB 560, SB 562, SB 579, SB 582, SB 586, SB 614, SB 640** were advanced to Final Action and roll call.

**Sub SB 383**, An act concerning property taxation; relating to exemptions; certain housing for the elderly or persons with disabilities or low income housing; amending K.S.A. 2007 Supp. 79-201z 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The substitute bill passed.

**Sub SB 453**, An act concerning rural development; establishing the Kansas commission on rural policy; establishing the division of rural development within the department of commerce.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The substitute bill passed.

**SB 469**, An act concerning telecommunications; relating to local exchange carriers and carriers of last resort; amending K.S.A. 66-2009 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 555**, An act concerning rate increases for certain water utilities under the jurisdiction of the state corporation commission; relating to notice to customers of such utilities; concerning the citizens' utility ratepayer board.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 560**, An act establishing the property/casualty flex-rating regulatory improvement act; pertaining to personal lines insurance written on risks in this state by any insurer authorized to do business in this state.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 562**, An act concerning elections; providing a procedure for mobile polling places in nursing homes and certain related facilities.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "aye" on **SB 562** and as amended by our Committee of the Whole. It is refreshing to see the Secretary of State's Office, in conjunction with the Senate (so far), *add* opportunities for citizens, especially the frail and the elderly, to vote without the difficulty of travel during advance voting periods. Despite the addition of another mini bureaucracy, this is a good bill with expansion for democracy . . . for a change.—DAVID HALEY

**SB 579**, An act concerning the rules and regulations filing act; requiring agencies to consider the effects of proposed rules and regulations on small employers; amending K.S.A. 77-415 and K.S.A. 2007 Supp. 77-416 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 582**, An act relating to driving under the influence of alcohol or drugs; concerning certain penalties; amending K.S.A. 2007 Supp. 8-1567 and repealing the existing section; also repealing K.S.A. 2007 Supp. 8-1567b.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 586**, An act concerning the state corporation commission; relating to nuclear generation facilities; concerning recovery of certain costs; amending K.S.A. 2007 Supp. 66-128 and repealing the existing section.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Haley, Huelskamp, Jordan, Journey, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barone, Francisco, Gilstrap, Goodwin, Hensley, Kelly, Lee, Steineger.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote NO on **SB 586**. Although I have no objection to authorizing an electric utility to recover their prudent expenditures for study and feasibility costs for a new nuclear generation facility, I strongly object to removing the state corporation commission's responsibility to review the evidence and use its discretion regarding the determination of the depreciable life of the facility and the effective date on which construction expenditures shall be deemed to be completed and dedicated to commercial service.

This bill would set a depreciation schedule that may not reflect the actual life of the facility and would charge individual and business ratepayers for the higher costs of construction of a nuclear facility before they are given the advantages of the cheaper costs of nuclear fuel. Rate payers will be taking on a significant share of the risk without an opportunity to realize any of the return.

Rather than giving tax breaks or making special accommodation, government should focus on taxing the externalities of energy production and then let market forces work. Again, I believe Kansans would be better protected by trusting the state corporation commission to review the evidence before it, and be given the chance to use its discretion wisely—MARCI FRANCISCO

Senators Barone, Goodwin, Hensley, Kelly and Lee request the record show that they concur with the “Explanation of Vote” of Senator Francisco on **SB 586**.

**SB 614**, An act concerning the Kansas electric transmission act; relating to notice of intent to construct by the Kansas electric transmission authority to private entities; amending K.S.A. 2007 Supp. 74-99d14 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 640**, An act relating to crimes, criminal procedure and punishments; concerning drug crimes; recodification of certain statutes; amending K.S.A. 12-4419, 12-4509, 21-3436, 21-3608a, 21-3718, 21-3826, 21-4203, 21-4204, 21-4226, 21-4502, 21-4603d, 21-4704, 21-4705, 21-4708, 21-4713, 21-4714, 21-4717, 21-4729, 22-2909, 22-3901, 22-4902, 36-601, 36-604, 65-4102 and 65-4127c and K.S.A. 2007 Supp. 8-1567, 12-4104, 60-4104, 72-89c01 and 75-52,144 and repealing the existing sections; also repealing K.S.A. 21-3445, 21-4214, 21-4215, 65-4105a, 65-4141, 65-4142, 65-4155, 65-4158, 65-4162, 65-4163, 65-4164 and 65-4165 and K.S.A. 2007 Supp. 8-1567b, 21-4704b, 65-4150, 65-4151, 65-4152, 65-4153, 65-4159, 65-4159a, 65-4160, 65-4161 and 65-4166.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

#### REPORT ON ENGROSSED BILLS

**SB 414, SB 475, SB 492, SB 512, SB 538, SB 546, SB 574, SB 575** reported correctly engrossed February 27, 2008.

#### REPORT ON ENROLLED BILLS

**SR 1817** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 28, 2008.

#### COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator McGinn in the Chair.

On motion of Senator McGinn the following report was adopted:

Recommended **SB 401, SB 407, SB 628** be passed.

**SB 527** be amended by adoption of the committee amendments, and the bill be passed as amended.

**SB 399** be amended by adoption of the committee amendments and be further amended by motion of Senator Huelskamp, on page 7, by striking all in lines 27 through 33; following line 33, by inserting:

“(g) No child shall be required to attend kindergarten if the parent of the child or the person acting as parent of the child objects to the attendance of kindergarten. The parent or person acting as parent of the child shall submit a written and signed statement to the board of education of the school district in which the child resides requesting that the child not be required to attend kindergarten. The statement shall state the reason for the request and be submitted before August 1 of the school year.”; and **SB 399** be passed as further amended.

**SB 615** be amended by adoption of the committee amendments and be further amended by motion of Senator Umbarger, on page 7, in line 17, following “(m)” by inserting “(1)”; following line 24, by inserting the following:

“(2) Any moneys not paid by insurance companies under this subsection shall be paid to the attorney general, who shall credit such moneys received to the crime victims compensation fund.”;

**SB 615** be further amended by Senator Journey, on page 3, in line 2, following “attorney” by inserting “or defense attorney”; in line 12, preceding the period by inserting “and shall deliver a certified copy to any defense attorney”;

**SB 615** be further amended by Senator Journey, on page 6, following line 36, by inserting the following:

“(6) Notwithstanding any other provision under this section, if a person has entered into an agreement under this section, all criminal proceedings shall be stayed and shall be dismissed upon the completion of such agreement. Any agreement under this paragraph shall be completed in not more than 12 months. If such person fails to complete such agreement criminal charges shall be reinstated.”; and **SB 615** be passed as further amended.

A motion by Senator Journey to further amend **SB 615** failed and the following amendment was rejected: on page 7, in line 17, following “(m)” by inserting “(1)”; following line 24, by inserting the following:

“(2) Any moneys not paid by the insurance companies under this subsection shall be paid to the commissioner of insurance and who shall credit such moneys to the victims of uninsured motorist fund.”;

Also on page 7, preceding line 31, by inserting the following:

“New Sec. 3. (a) There is hereby created in the state treasury the victims of uninsured motorist fund. All moneys credited to the victims of uninsured motorist fund shall be used only to reimburse individuals for property damage to their motor vehicles as a result of damages caused by an uninsured motorist. All expenditures from the victims of uninsured motorist fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of insurance.

(b) The commissioner of insurance shall develop and implement a victims of uninsured motorist program for persons who only have liability insurance on their motor vehicle and who suffer property damage to such motor vehicle as a result of an accident with an uninsured motorist. The commissioner shall adopt such rules and regulations to carry out the provisions of this section, including development of an application and disbursement procedure.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 11, preceding “amending” by inserting “creating victims of uninsured motorist program.”

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **HOUSE Substitute for SB 359**, 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 13, preceding the period by inserting “: *And provided further*, That the secretary of transportation shall prepare and submit a report on air passenger service and support agreements at Manhattan regional airport and any expenditures from the north central Kansas air passenger service support fund during the first two quarters of fiscal year 2009 to the committee on ways and means of the senate and the committee on appropriations of the house of representatives at the beginning of the 2009 regular session of the legislature”;

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

SHARON SCHWARTZ  
LEE E. TAFANELLI  
BILL FEUERBORN  
*Conferees on part of House*

DWAYNE UMBARGER  
VICKI SCHMIDT  
LAURA KELLY  
*Conferees on part of Senate*

Senator Umbarger moved the Senate adopt the Conference Committee Report on **H Sub for SB 359**.

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

Yeas: Allen, Apple, Barnett, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson.

Nays: Bruce, Wysong.

Absent or Not Voting: Barone.

The Conference Committee report was adopted.

#### **FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS**

On motion of Senator D. Schmidt an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **SB 399, SB 401, SB 407, SB 527, SB 615, SB 628** were advanced to Final Action and roll call.

**SB 399**, An act concerning school districts; relating to kindergarten; amending K.S.A. 72-1106 and 72-1107 and K.S.A. 2007 Supp. 72-1111 and 72-53,106 and repealing the existing sections.

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

Yeas: Allen, Apple, Barnett, Betts, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Brownlee, Huelskamp, Pyle.

Absent or Not Voting: Barone.

The bill passed, as amended.

**SB 401**, An act concerning school districts; relating to school finance; amending K.S.A. 2007 Supp. 72-6407 and 72-8187 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: Allen, Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Barone.

The bill passed.

**SB 407**, An act concerning early childhood education; relating to the transfer of authority of certain early childhood education programs to the department of education.

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

Yeas: Allen, Barnett, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Apple, Bruce.

Absent or Not Voting: Barone.

The bill passed.

**SB 527**, An act concerning early childhood education; relating to parent education programs and early head start; amending K.S.A. 72-3603 and repealing the existing section.

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

Yeas: Allen, Apple, Barnett, Betts, Brownlee, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Bruce, Huelskamp, Pyle.

Absent or Not Voting: Barone.

The bill passed, as amended.

**SB 615**, An act amending the Kansas automobile injury reparations act; concerning failure to maintain financial security; amending K.S.A. 2007 Supp. 8-1021 and 40-3104 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: Allen, Apple, Barnett, Betts, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Jordan, Kelly, Lee, McGinn, Morris, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Brownlee, Bruce, Haley, Huelskamp, Journey, Lynn, Ostmeyer, Pyle.

Absent or Not Voting: Barone.

The bill passed, as amended.

**SB 628**, An act concerning school districts; relating to school finance; amending K.S.A. 2007 Supp. 72-6407 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: Allen, Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Barone.

The bill passed.

#### **POINT OF PERSONAL PRIVILEGE**

Senator David Haley was recognized by President Morris on a Point of Personal Privilege.

MR. PRESIDENT: Colleagues of the Kansas Senate:

February, the shortest month in our calendar, has been celebrated as Black History Month in this country since 1976. (Before that, this annual observation was only “Negro History Week”) and it dawned on me that after fourteen years here in this Legislature (and with any, and every, election year potentially signaling my last year here in the Kansas Legislature . . . David Haley needs to set the record, of extraordinary black elected officials and their history, straight . . . if no one else ever has or ever will.

Mr. President . . . Our K.S.A. 8-1740 states that it is inappropriate, no, *illegal* to operate a vehicle in our state without a rearview mirror. We require ourselves to always be able to see where we’ve been to be able to move forward.

Accordingly, I pay homage to but some of these African Americans elected to serve our state:

- In our State's relative infancy, in 1883, Edward McCabe, a Republican from Nicodemus, was elected statewide as State Auditor. (Now I should note that this was before electricity and modern photographs . . . so perhaps, the majority didn't even know that Auditor McCabe was a black man!) But surely, certainly all Kansans knew when Ed McCabe was re-elected in 1885 that he was a Kansan of color.
- Succinctly, but not necessarily in rapid succession, many feats of candidates of color were reached in Kansas.
- In 1889, Alfred Fairfax, a Republican, was elected to the Kansas House. He would serve only one year and it would be forty years until Dr. W. M. Blount was elected to the Kansas House in 1929. Since Dr. Blount's election, an African American has consistently been in the Kansas House from Wyandotte County until this day; almost ninety years later.
- It was not until 1964 - over a century of Kansas' being in the Union - that an African American was elected to the Kansas Senate. My father, George W. Haley, a Republican from Wyandotte County, and Curtis McClinton, a Democrat from Sedgwick County, both won then. Since 1964, with the exception of two years fulfilling an unexpired term, a senator of color has represented part of Sedgwick County until this day, almost forty-five years later
- From Representative Fairfax' short service of only one year, the longest elected tenure of a black statesman to date is that of Wichita's Billy McCray who served across the Rotunda and in this chamber from 1967-1984. While, sadly, no black woman has yet to ever be elected to the Kansas senate, many women of color have been elected to the Kansas house beginning in 1991 with Wichita's Ruby Gilbert.
- Of note, our research shows one of the entire senate's most venerable, U.L. "Rip" Gooch served into his eighties; and one of the entire Senate's most youthful, Donald Betts, Jr., having been elected at only twenty-five.
- Yours truly, David Haley, won a Democratic primary contest for Secretary of State in 2006; a statewide first, repeated this month of this year (at least by presidential caucus) by a candidate for the Democratic nomination for United States President, Barack Obama.

In closing, earlier I said I pay homage to these feats of black elected officials. But in a state where African Americans have comprised no more than 7% of the entire population, we should all find testimony to all Kansans now and before. Unlike many of your districts with negligible or even non-existent minority presence every black ever elected in Kansas has had to rely on the votes of white constituents, whereas white candidates have not needed minority constituents to be elected.

To me, this underscores the character of Kansas and what Kansans really believe in: that it is more about what each person can bring to the legislature and their content instead of their race and culture. (Indeed, the noted representative and senator from Kansas, who would serve as Vice President of the United States . . . Charles Curtis . . . was Native American, elected in 1925.

As we look in the "rearview mirror" today, Mr. President, yes, I am so proud of our history and from whence we have come in this state. And with it being such a rich and inclusive history in this, our great state . . . brought to the union, Mr. President. This United States . . . dedicated to the freedom and then to the dignity and to the potential ability in every man, Mr. President . . . I hope that you are proud too.—DAVID HALEY

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Friday, February 29, 2008.

HELEN MORELAND, CHARLENE BAILEY, PAT MATZEK, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

