

Journal of the Senate

EIGHTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 5, 2015, 2:30 p.m.

The Senate was called to order by Vice President Jeff King.
The roll was called with 37 senators present.
Senators Hawk, Lynn and Wolf were excused.
Invocation by Father Don Davidson:

Dear Lord, one of your more peculiar creatures is said to be given the power of weather prediction and has told us that we will experience winter for another six weeks. The prediction is at least partly based in the calendar, for spring is indeed six weeks away, and on his ability to see or not see his shadow. There are many things that keep humans amused, some more serious than others, all creative in their own way. Even in the midst of difficult decision making, let us not forget to have fun with each other, to laugh with others and sometimes at ourselves, for that too is your gift. Smile down upon us, merciful God, with your grace. Amen

The Pledge of Allegiance was led by Vice President Jeff King.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 154, AN ACT concerning employment security law; relating to determination of benefits; employer classification and rates; amending K.S.A. 2014 Supp. 44-704 and 44-710a and repealing the existing sections, by Committee on Commerce.

SB 155, AN ACT concerning surplus lines insurance; defining terms; relating to gross premiums and tax thereon; amending K.S.A. 2014 Supp. 40-246c and repealing the existing section; also repealing K.S.A. 2014 Supp. 40-5701, by Committee on Financial Institutions and Insurance.

SB 156, AN ACT concerning water; relating to the Arkansas river gaging fund; amending K.S.A. 2014 Supp. 74-5,133 and repealing the existing section, by Committee on Natural Resources.

SB 157, AN ACT concerning the revised Kansas code for care of children; relating to medicating a child; amending K.S.A. 2014 Supp. 38-2201 and repealing the existing section, by Committee on Judiciary.

SB 158, AN ACT concerning the revised Kansas code for care of children; establishing a CARE family program for foster care; amending K.S.A. 2014 Supp. 38-2218 and repealing the existing section, by Committee on Judiciary.

SB 159, AN ACT concerning the revised Kansas code for care of children; relating to when law enforcement officers shall take a child into custody; amending K.S.A. 2014 Supp. 38-2231 and repealing the existing section, by Committee on Judiciary.

SB 160, AN ACT concerning the revised Kansas code for care of children; relating to termination of parental rights; amending K.S.A. 2014 Supp. 38-2269 and repealing the existing section, by Committee on Judiciary.

SB 161, AN ACT concerning the state board of regents; relating to university support staff; amending K.S.A. 2014 Supp. 76-715a and 76-715b and repealing the existing sections, by Committee on Ways and Means.

SB 162, AN ACT concerning the joint estimate of revenue; amending K.S.A. 2014 Supp. 75-6701 and repealing the existing section, by Committee on Ways and Means.

SB 163, AN ACT concerning state governmental ethics; relating to state officers and employees; relating to lobbyists; amending K.S.A. 46-232 and repealing the existing section, by Senators Hensley, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Kelly and Pettey.

SB 164, AN ACT concerning railroads; relating to operation and movement; requiring two employees; penalties, by Committee on Transportation.

SB 165, AN ACT concerning open meetings; relating to closed or executive meetings; amending K.S.A. 2014 Supp. 75-4319 and repealing the existing section, by Committee on Ethics and Elections.

SB 166, AN ACT enacting the rule of law restoration act, by Committee on Federal and State Affairs.

SCR 1602, A CONCURRENT RESOLUTION urging Congress to pass an amendment to the United States Constitution to overturn the holding in Citizens United v. Federal Election Commission.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Corrections and Juvenile Justice: **SB 146, SB 147.**

Federal and State Affairs: **SB 152, SB 153.**

Financial Institutions and Insurance: **SB 143, SB 144, SB 145.**

Judiciary: **SB 148, SB 149.**

Transportation: **SB 150.**

Utilities: **SB 151.**

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2003, HB 2008, HB 2048, HB 2064.**

The House nonconcur in Senate amendments to **HCR 5002**, requests a conference and has appointed Representatives Barker, Kahrs, and Trimmer as conferees on part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2003, HB 2008, HB 2048, HB 2064 were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1706—

A RESOLUTION commemorating the 11th Anniversary of National Wear Red Day.

WHEREAS, Heart disease is the number one killer of women, yet is often preventable; and

WHEREAS, Cardiovascular diseases cause one in three women's deaths each year, killing approximately one woman every minute; and

WHEREAS, An estimated 43 million women in the United States are affected by cardiovascular diseases; and

WHEREAS, Heart disease kills more women than all forms of cancer combined, but is often undiagnosed; and

WHEREAS, Ninety percent of women have one or more risk factors for developing heart disease, yet only one in five American women believes that heart disease is her greatest health threat; and

WHEREAS, Women comprise only 24% of participants in all heart-related studies; and

WHEREAS, Since 1984, more women than men have died each year from heart disease and the gap between men's and women's survival continues to widen; and

WHEREAS, Women are less likely to call 911 for themselves when experiencing symptoms of a heart attack than they are if someone else was having a heart attack; and

WHEREAS, The American Heart Association's Go Red for Women movement has been impacting the health of women for 11 years. More than 627,000 women's lives have been saved and 330 fewer women are dying every day; and

WHEREAS, In celebration of the 11th Anniversary of National Wear Red Day on February 5, 2015, Go Red for Women is asking all women across America to 'Go Red' by wearing red and speaking about awareness. Women can prevent heart disease by: Asking their doctors to check their blood pressure and cholesterol; stopping smoking, losing weight, exercising and eating healthy; realizing their risk, since heart disease is the cause of one in three female deaths each year; making healthy food choices for themselves and their families and teaching their children the importance of staying active; and by telling every woman they know that heart disease is their number one killer; and

WHEREAS, By increasing awareness, speaking up about cardiovascular disease and empowering women to reduce their risk, thousands of women's lives can be saved each year: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate the 11th Anniversary of National Wear Red Day and urge all citizens to show their support for women and the fight against heart disease by wearing the color red.

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator McGinn.

On emergency motion of Senator McGinn **SR 1706** was adopted unanimously.

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

SENATE RESOLUTION No. 1707—

A RESOLUTION recognizing 50 years of black state senators in Kansas and honoring George W. Haley, the first elected black state senator in Kansas.

WHEREAS, February of each year is designated "Black History Month" in the United States, and, in Kansas, Governor Sam Brownback has also designated the same, urging all Kansans to recognize accomplishments and contributions to Kansas made by people of color; and

WHEREAS, The 1965 session of the Kansas State Legislature was the first time in history that blacks would serve in the Kansas Senate, a legislative body that first commenced upon Statehood in 1861; and

WHEREAS, George Williford Boyce Haley was born on August 28, 1925, in Henning, Tennessee. After serving in World War II in the U.S. Air Force, George Haley attended Morehouse College with fellow student Martin Luther King, Jr. and became one of the first African-Americans to graduate from the University of Arkansas School of Law. George Williford Boyce Haley, a Republican Kansas City attorney and resident of Wyandotte County, and Democrat Curtis McClinton, Sr., a realtor from Wichita and member of the Kansas House of Representatives, were both elected to the Kansas Senate in the general election held in November, 1964. Haley was officially accorded first-elected status because his district number, 11, numerically preceded McClinton's district number, 26. Haley's last name alphabetically precedes McClinton's and Wyandotte County election officials reported election results to the Secretary of State's office before Sedgwick County election officials reported results; and

WHEREAS, Haley joined the firm of Stevens, Jackson and Davis in Kansas City, Kansas, who provided legal assistance in the landmark civil rights case, *Brown v. Board of Education* in Topeka, Kansas. Haley then served as Deputy City Attorney in Kansas City, Kansas; and

WHEREAS, In the Kansas Legislature, Senator George Haley was an advocate for personal liberties and social equity, and a visionary for inclusion. He was often not supported by fellow members of the Kansas Senate, including members from his own political party. A noted example of putting principles above partisan or popular politics was his near-solo support for fair and equal housing; and

WHEREAS, Haley went on to serve in six United States presidential administrations. He served as Chief Counsel of the Federal Transportation Administration under President Nixon, Associate Director for the Equal Employment Opportunity Commission at the U.S. Information Agency and General Counsel and Congressional Liaison under President Ford, Senior Advisor to the U.S. delegation of the United Nations Educational, Scientific and Cultural Organization under President Reagan, Chairman of the Postal Rate Commission under President George H.W. Bush and, under President Clinton, as the U.S. Ambassador to the Republic of The Gambia in West Africa, from whence Haley's forefather Kuntah Kinteh was brought to America; and

WHEREAS, Haley now lives in Silver Spring, Maryland, with his wife of 60 years, Doris; and

WHEREAS, Over the last 50 years, beginning with George W. Haley, only eight

other black people have served in the Kansas State Senate: Curtis R. McClinton; Bill McCray; Eugene Anderson; U.L. "Rip" Gooch; Sherman J. Jones; David B. Haley; Donald Betts Jr.; and Oletha Faust-Goudeau. Edward Sexton Jr. held the honorary title of Kansas State Senator, but did not serve: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we do hereby honor and recognize the half century of elected Afri-Kansans in this Chamber, cognizant during Black History Month of their contributions to the greatness of our state. We especially acknowledge the accomplishments of our first elected black member, George W. Haley, who, through determination, hard work and the grace of God, broke numerous barriers to become a distinguished and inspiring American statesman.

Be it further resolved: That the Secretary of the Senate shall send two enrolled copies of this resolution to Ambassador George W. Haley.

On emergency motion of Senator Haley **SR 1707** was adopted unanimously.

SPECIAL REMARKS

This morning in the Statehouse's new Visitor's Center, Gov. Brownback signed a proclamation recognizing Black History Month in Kansas. We are all called upon to recognize the accomplishments and contributions African-Americans have made, and continue to make, to our great State during February. As SR 1707 details, Mr. Vice-President, this year marks only the 50th (of Kansas' 154) Session in which Kansas could boast of an elected black Senator. I am especially humbled and proud that this half-century of service was started with the swearing in of my own father, George W. Haley here in this very Chamber in January of 1965. (There's a picture of that moment here on my desk now at what was that historic day with me and my sister, Anne, on his knee, my mother Doris, my Uncles Julius and Alex Haley, my grandfather, Simon Haley and my Aunt Virginia Hannon on my desk here now in this Chamber.) Only eight others of color have since served. I will read their names and ask each of us to recall the distinction with which they have served over the last half-century in the Kansas Senate. (Names were read. One, Darryl Gray, was inadvertently omitted.) Thank you, Mr. Vice President.—DAVID HALEY

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Masterson moved the Senate concur in House amendments to **H Sub SB 4**.

H Sub SB4, AN ACT making and concerning appropriations for fiscal years ending June 30, 2015, and June 30, 2016, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2014 Supp. 72-8814, 74-4914d, 74-4920 and 74-50,107 and repealing the existing sections.

On roll call, the vote was: Yeas 24; Nays 13; Present and Passing 0; Absent or Not Voting 3.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Fitzgerald, Kerschen, King, LaTurner, Longbine, Love, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Smith, Wagle, Wilborn.

Nays: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Holmes, Kelly, Knox, McGinn, Pettey, Pyle, Schmidt, Tyson.

Absent or Not Voting: Hawk, Lynn, Wolf.

The Senate concurred.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: I recognize that the state must find revenue to pay its bills this month and set aside the money to cover some increased expenses. The state employees who have not been given a raise for many years are being required to contribute more of their salary to the KPERS retirement fund, reducing their take-home pay. Yet, in the debate on this bill, it was claimed that reducing the state employer contributions to that same fund won't even be noticed. We are transferring money identified for specific purposes including the Children's Initiatives Fund, the State Highway Fund, the Kansas Highway Patrol Operations Fund, and the Underground Storage Tank Redevelopment Fund to shore up general fund expenses. We are asking state agencies to take another across-the-board cut. This bill is asking some Kansans to take the hit to pay for the cost of services that should be shared more equitably by us all. I vote "NO" on **H Sub for SB 4**.—MARCI FRANCISCO

MR. VICE PRESIDENT: It is with the greatest of reservations I cast an affirmative vote on this measure. As a fiscal conservative, this measure strikes me as wholly inadequate. We cannot continue to meet our budget obligations by delaying KPERS payments, transferring funds from our highway program and postponing revenue owed by the state to local schools. Yet we must pay our bills this month and this is the only alternative before the Senate. In the remaining days of this session, we must have real discussions about a balanced, sustainable budget based on revenues to meet our obligations and provide the services that Kansans expect and deserve. —JEFF LONGBINE

MR. VICE PRESIDENT: I vote no on this measure as it fails to meet the test of fiscal responsibility. I am growing weary of state policy that continues to shift responsibility to local units of government, robs more money from KDOT and makes our KPERS liability even greater. Yet we must pay our bills this month and the measure before us is the only alternative we've been given. Many of us supported the TWORKS program and now we've taken so much money from this program that the program will be adversely affected. Road maintenance will suffer. We must cease this practice of shifting money away from the top job-creating program in our state. I look forward to an honest debate in this session about the realities of our revenue picture and the budget priorities of our citizens.—CAROLYN MCGINN

Senators Kelly and Schmidt requests the record to show they concur with the Explanation of Vote offered by Senator McGinn on **H Sub SB 4**.

MR. VICE PRESIDENT: I cannot in good conscience support a bill that has an \$800,000 deficit below 0 for 2015 and does not address the underlying problem; and unsustainable and inequitable tax policy. We have put at risk our state, our security, our children, and our future. I vote "NO" on **H Sub SB 4**.—PAT PETTEY

Senator Kelly requests the record to show that she concurs with the Explanation of Vote offered by Senator Pettey on **H Sub SB 4**.

ORIGINAL MOTION

On motion of Senator Wagle, the Senate acceded to the request of the House for a

conference on **HCR 5002**.

The Vice President appointed Senators King, Bruce and Hensley as conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **SB 12** be amended on page 2, in line 12, after "(E)" by inserting "community corrections officer or"; also in line 12, by striking the second "court services"; in line 13, by striking "court services"; in line 28, after "(E)" by inserting "community corrections officer or"; also in line 28, by striking the second "court services"; in line 29, by striking "court services";

On page 3, in line 15, after "(E)" by inserting "community corrections officer or"; also in line 15, by striking the second "court services"; in line 16, by striking "court services"; in line 29, after "(E)" by inserting "community corrections officer or"; also in line 29, by striking the second "court services"; in line 30, by striking "court services";

On page 5, in line 11, by striking "and Rainbow mental health"; in line 12, by striking "facility"; in line 14, by striking "an employee of a contractor who is" and inserting "contractors and employees of contractors"; in line 20, after "a" by inserting ": (A)"; also in line 20, after the second comma by inserting "special assistant county attorney,"; in line 21, after the second "attorney," by inserting "special assistant district attorney,"; also in line 21, by striking "or" and inserting a comma; in line 22, after "general" by inserting "or special assistant attorney general; and (B) public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto;

(9) "community corrections officer" means an employee of a community correctional services program responsible for supervision of adults or juveniles as assigned by the court to community corrections supervision and any other employee of a community correctional services program that provides enhanced supervision of offenders such as house arrest and surveillance programs";

Also on page 5, in line 23, by striking "(9)" and inserting "(10)";

And the bill be passed as amended.

Also, **SB 13** be amended on page 2, in line 9, after "commission;" by inserting "and"; in line 10, by striking the "; and"; in line 11, by striking "(6) the juvenile justice authority"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 57** be passed.

Also, **SB 44** be amended on page 1, in line 16, by striking the second "and" and inserting a comma; and the bill be passed as amended.

SB 58 be amended on page 1, in line 10, after "44-556," by inserting "59-29a01 et seq.,"; and the bill be passed as amended.

SB 22 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 **Natural Resources** recommends **SB 52** be amended on page 1, in line 11, after the first "of" by inserting "water reservation rights held by"; also in line 11, by striking "or that has been released"; by striking all in line 12; in line 13, by striking "government"; in line 17, by striking "pursuant to an"; in line 18, by striking "agreement between the state and federal government" and inserting "water reservation

rights held by the state of Kansas"; in line 22, before "allow" by inserting "within the rattlesnake creek subbasin located in hydrologic unit code 11030009;"; in line 23, by striking "available" and inserting "such replacement is available and offered voluntarily"; and the bill be passed as amended.

On motion of Senator Bruce, the Senate adjourned until 8:00 a.m., Friday, February 6, 2015.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.
COREY CARNAHAN, *Secretary of the Senate*.

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