

Journal of the Senate

TWENTY EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 16, 2006—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator O'Connor was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

How can I possibly represent 70,000 people who are characterized by incredible diversity? Besides Caucasian, there are minorities, most of whom are African-Americans, Native Americans, and Hispanics.

There are illiterates and PhD's, urban and rural; white and blue collar; union and management; voters and non-voters; rich, middle class and poor.

There are young, adult, middle-aged, and "You're looking good!"

There are healthy, disabled, and institutionalized.

There are atheists, agnostics, skeptics, deists, Jews, Catholics, Protestants, numerous other religions, and even a bunch of Baptists (including the Chaplain).

There are liberals, moderates, and conservatives. Democrats, Republicans, and Independents.

There are farmers struggling to deal with uncooperative weather,

There are entrepreneurs struggling to meet pay-rolls.

There are husbands and wives, both working, and struggling to keep one or more children in college.

There are many struggling with heart disease, cancer, alzheimer's, aids, diabetes, and other debilitating diseases.

There are those on minimum wage and no medical insurance.

There are those who know me personally and those who think I'm in Washington.

Lord, how can I possibly represent such a diverse constituency? Only by your grace and what wisdom You grant me.

And for Your grace and wisdom I thank You in the Name of Jesus Christ,

AMEN

POINT OF PERSONAL PRIVILEGE

Senator Bruce and members of the Senate congratulated and welcomed the Buhler Debate Team upon winning the 5A State Championship. Team members recognized were Andy Berg, Connor Bridge, Landon Elliot, Joey Ralph, Meriah Forbes, Chelsea Corkins and Assistant Coach Gary Minor.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were introduced and read by title:

SB 569. An act concerning claims against the state; relating to payment by state agencies for certain personal injuries and property damages or losses authorized; limitations; amending K.S.A. 46-922 and repealing the existing section, by Committee on Ways and Means.

SB 570. An Act making and concerning appropriations for the fiscal years ending June 30, 2006, and June 30, 2007, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

SB 571. An act making and concerning appropriations for the fiscal years ending June 30, 2007, and June 30, 2008, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

SB 572. An act relating to public libraries; concerning the basis for property tax levies thereof; amending K.S.A. 75-2551 and 79-2930 and repealing the existing sections, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1622

By Senators Barnett and Wagle

A PROPOSITION to amend section 5 of article 3 of the constitution of the state of Kansas, relating to the selection of justices of the supreme court.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 5 of article 3 of the constitution of the state of Kansas is hereby amended to read as follows:

- “**§ 5. Selection of justices of the supreme court.** (a) Any vacancy occurring in the office of any justice of the supreme court and any position to be open thereon as a result of enlargement of the court, or the retirement or failure of an incumbent to file ~~his such justice's~~ declaration of candidacy to ~~succeed himself be retained in office~~ as hereinafter required, or failure of a justice to be elected to ~~succeed himself be retained in office~~, shall be filled by appointment by the governor ~~of one of three persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission established as hereinafter provided, with the consent of the senate.~~
- (b) In event of the failure of the governor to make the appointment within ~~sixty~~ 60 days from the time the ~~names of the nominees are submitted to him~~ vacancy occurs or the position opens, the chief justice of the supreme court, ~~with the consent of the senate~~, shall make the appointment ~~from such nominees.~~
- (c) No person appointed pursuant to subsection (a) or (b) of this section shall assume the office of justice of the supreme court until the senate, by an affirmative vote of the majority of all members of the senate then elected or appointed and qualified, consents to such appointment. The senate shall vote to consent to any such appointment not later than 30 days after such appointment is received by the senate. If the senate is not in session and will not be in session within the 30 day time limitation, the president of the senate shall convene the senate for the sole purpose of voting on such appointment and no other action shall be in order during such session. In the event a majority of the senate does not vote to consent to the appointment, the governor, within 30 days after the senate vote on the previous appointee, shall appoint another person possessing the qualifications of office and such subsequent appointment shall be considered by the senate in the same procedure as provided in this article. If the governor fails to make such subsequent appointment within 15 days after the senate vote on the previous appointee, then the chief justice of the supreme court shall make the appointment,

with the consent of the senate in the same procedure as provided in this article. The same nomination, appointment and consent procedure shall be followed until a valid appointment has been made. No person who has been previously appointed but did not receive the consent of the senate shall be nominated or appointed again for the same vacancy. If the senate fails to vote on an appointment within the 30 day time limitation, the senate shall be deemed to have given consent to such appointment.

- (d) Each justice of the supreme court appointed pursuant to provisions of subsection (a) or (b) of this section *and consented to pursuant to the provisions of subsection (c) of this section* shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of ~~twelve~~ 12 months in office. Not less than ~~sixty~~ 60 days prior to the holding of the general election next preceding the expiration of ~~his~~ such justice's term of office, any justice of the supreme court may file in the office of the secretary of state a declaration of candidacy for election to ~~succeed himself~~ be retained in office. If a declaration is not so filed, the position held by such justice shall be open from the expiration of ~~his~~ such justice's term of office. If such declaration is filed, ~~his~~ such justice's name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows:

“Shall

(Here insert name of justice.)

(Here insert the title of the court.)

be retained in office?”

If a majority of those voting on the question vote against retaining ~~him~~ such justice in office, the position or office which ~~he~~ such justice holds shall be open upon the expiration of ~~his~~ such justice's term of office; otherwise ~~he~~ such justice shall, unless removed for cause, remain in office for the regular term of six years from the second Monday in January following such election. At the expiration of each term ~~he shall~~ such justice, unless by law he is compelled to retire by law, shall be eligible for retention in office by election in the manner prescribed in this section.

- ~~(d) A nonpartisan nominating commission whose duty it shall be to nominate and submit to the governor the names of persons for appointment to fill vacancies in the office of any justice of the supreme court is hereby established, and shall be known as the “supreme court nominating commission.” Said commission shall be organized as hereinafter provided.~~
- ~~(e) The supreme court nominating commission shall be composed as follows. One member, who shall be chairman, chosen from among their number by the members of the bar who are residents of and licensed in Kansas, one member from each congressional district chosen from among their number by the resident members of the bar in each such district; and one member, who is not a lawyer, from each congressional district, appointed by the governor from among the residents of each such district.~~
- ~~(f) The terms of office, the procedure for selection and certification of the members of the commission and provision for their compensation or expenses shall be as provided by the legislature.~~
- ~~(g) No member of the supreme court nominating commission shall, while he is a member, hold any other public office by appointment or any official position in a political party or for six months thereafter be eligible for nomination for the office of justice of the supreme court. The commission may act only by the concurrence of a majority of its members.”~~

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“*Explanatory statement.* The purpose of this amendment is to abolish the supreme court nominating commission and to require persons appointed by the governor

or the chief justice to the office of justice of the supreme court to be consented to by the senate, similar to the federal system. A procedure is established whereby senate consent would occur with 30 days of receiving the appointment. If the senate does not consent by a majority vote, the governor or the chief justice would then select another appointment which would again be submitted to the senate for consent. The same nomination, appointment and consent procedure would be followed until a valid appointment is made. If the senate fails to vote on an appointment within 30 days, it will be deemed that the senate has consented to the appointment.

“A vote for this proposition would abolish the supreme court nominating commission and provide a procedure whereby the senate, by majority vote, must consent to the appointment, by the governor or chief justice, of supreme court justices.

“A vote against this proposition would continue in effect the current provision whereby the supreme court nominating commission nominates three persons for the office of any justice of the supreme court and the governor appoints one of such persons.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2006.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Assessment and Taxation: **Sub HB 2525; HB 2619.**

Commerce: **HB 2856.**

Education: **HB 2634.**

Federal and State Affairs: **SB 567; SCR 1621.**

Judiciary: **SB 568.**

Public Health and Welfare: **HB 2678.**

Transportation: **HB 2705.**

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2676, HB 2681, HB 2703, HB 2708.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2676, HB 2681, HB 2703, HB 2708 were thereupon introduced and read by title.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Steineger as a member of the Conference Committee on **SB 269** to replace Senator Gilstrap.

FINAL ACTION ON CONSENT CALENDAR

HB 2673 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

HB 2673, An act concerning oil and gas; requiring information; amending K.S.A. 55-1622 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, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The bill passed.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

SB 332, An act concerning postsecondary educational institutions; relating to insurance; amending K.S.A. 75-4101 and repealing the existing section, was considered on final action.

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

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

Absent or Not Voting: O'Connor.

The bill passed, as amended.

Sub SB 358, An act concerning income taxation; relating to withholding requirements; filing certain statements by electronic means by certain employers; amending K.S.A. 2005 Supp. 79-3299 and repealing the existing section, was considered on final action.

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

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

Absent or Not Voting: O'Connor.

The substitute bill passed.

SB 388, An act establishing the Kansas qualified biodiesel fuel producer incentive fund, was considered on final action.

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

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

Absent or Not Voting: O'Connor.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: While I agree with the spirit of this bill, I have real concerns with the funding source stipulated by it. The highway fund was created to provide for the maintenance and construction of roads, not to serve as a funding source for other projects. We cannot keep funneling funds earmarked for KDOT to projects that do not fall under the original intent of the highway fund. The state general fund is the proper funding source for an initiative such as this. However the Senate has spoken on this issue of funding and the overall benefit of the issue guides my vote. I vote yes on **SB 388**.—JIM BARONE

Senators Gilstrap and Wysong request the record to show they concur with the "Explanation of Vote" offered by Senator Barone on **SB 388**.

SB 397, An act concerning adoptions; relating to birth certificates; amending K.S.A. 65-2423 and repealing the existing section, was considered on final action.

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

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

Absent or Not Voting: O'Connor.

The bill passed.

SB 407, An act increasing jurors' fees; amending K.S.A. 43-171 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The bill passed, as amended.

Sub SB 463, An act repealing K.S.A. 50-675a; concerning telemarketing; relating to the notification requirements of telecommunications carriers, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The substitute bill passed.

SB 470, An act concerning the behavioral sciences; relating to temporary licenses; amending K.S.A. 65-5804a, 65-6405, 74-5366 and 74-5367 and K.S.A. 2005 Supp. 65-6309 and repealing the existing sections; also repealing K.S.A. 65-5805, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The bill passed, as amended.

SB 481, An act concerning school districts; relating to consolidation; relating to state aid; amending K.S.A. 2005 Supp. 72-6434, 72-6445a, 72-8814 and 75-2319 and repealing the existing sections; also repealing K.S.A. 72-6445, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The bill passed, as amended.

SB 500, An act concerning agriculture; relating to phytosanitary fees; amending K.S.A. 2005 Supp. 2-2118 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The bill passed, as amended.

HB 2284, An act relating to breastfeeding mothers; concerning right to breastfeed; jury duty while breastfeeding; amending K.S.A. 43-158 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The bill passed, as amended.

REPORT ON ENGROSSED BILLS

SB 221, SB 374, SB 379, SB 381, SB 384, SB 392, SB 405, SB 464 reported correctly engrossed February 16, 2006.

SR 1809 reported correctly engrossed February 16, 2006.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 544** be amended on page 4, in line 15, by striking all following “means”; by striking all in lines 16 and 17; in line 18, by striking all preceding the period and inserting “an alternative fuel that is a blend of denatured ethanol and hydrocarbon that typically contains 85% ethanol by volume, but at a minimum must contain 70% ethanol by volume, and complies with ASTM specification D5798-99”; in line 25, by striking “July 1, 2006” and inserting “January 1, 2007”; in line 32, by striking “(c)” and inserting “(b)”; in line 38, by striking “\$11” and inserting “\$.11”; in line 41, following “after” by inserting “January 1, 2007, and”; and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **SB 404** be amended on page 20, in line 35, by striking “and” the last time it appears; in line 36, after “property” by inserting “and services”; in line 38, by striking “pre-”; in line 39, by striking “perty is” and inserting “property and services are”;

On page 22, in line 7, after “designee” by inserting the following: “;

(jjj) all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, “dietary supplement” means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion, in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36; and

(lll) all sales of tangible personal property and services purchased by special olympics Kansas, inc. for the purpose of providing year-round sports training and athletic competition in a variety of olympic-type sports for individuals with intellectual disabilities by giving them continuing opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, other special olympics athletes and the community, and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization”;

On page 1, in the title, in line 9, by striking “certain per-”; by striking all in line 10; in line 11, by striking “products;”; and the bill be passed as amended.

Also, **SB 443** be amended on page 1, in line 18, after “K.S.A.” by inserting “79-201d and”; and the bill be passed as amended.

SB 444 be amended on page 2, in line 17, after “operating” by inserting “farm”; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 493** be amended on page 1, in line 14, after “New Section 1.” by inserting “(a)”; in line 24, after the period, by inserting “(b)”; in line 26, by striking “(a)” and inserting “(1)”; in line 30, by striking “(b)” and inserting “(2)”; in line 32, by striking “(c)” and inserting “(3)”; in line 33, by striking “(d)” and inserting “(4)”; in line 34, by striking “(e)” and inserting “(5)”; in line 35, by striking “(f)” and inserting “(6)”; in line 37, by striking “(g)” and inserting “(7)”; in line 38, by striking “(h)” and inserting “(8)”; in line 39, by striking “(i)” and inserting “(9)”; in line 40, by striking “(j)” and inserting “(c)”; in line 42, after “(a)” by inserting “Only the state of Kansas, and county and city governments shall be authorized to use eminent domain for economic development.

(b)”;

On page 2, in line 38, after the period, by inserting “The approval process, from initial hearing to approval of eminent domain, shall be limited to three years.”; in line 43, after the period, by inserting “The court shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.”; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 555** be passed.

Also, **SB 394** 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 **Financial Institutions and Insurance** recommends **SB 442** be passed.

Committee on **Utilities** recommends **SB 350** be amended on page 8, in line 7, before the semicolon, by inserting “. If standards in subsection (q)(1)(B), (C) or (D) have been met, prices for packages or bundles shall not exceed the sum of the highest prices of the ala carte components of the package or bundle”; in line 15, after “entities”, by inserting “, one of which must be a facilities based carrier or entity.”; in line 26, after “entities”, by inserting “, one of which must be a facilities based carrier or entity.”; in line 29, by striking all after “area.”; in line 30, by striking all before “no”; in line 35, by striking the period and inserting a semicolon; following line 35, by inserting:

“(F) rates for the initial residential local exchange access line and up to four business local exchange access lines at one location shall remain subject to price cap regulation; and

(G) local exchange carriers shall offer a uniform price throughout each such exchange for services subject to price deregulation, under this subsection, including packages or bundles of services.”;

On page 9, in line 8, after the period, by inserting “Price deregulated services shall be subject to the price floor in subsection (k), and shall not be unreasonably discriminatory or unduly preferential within an exchange.”; following line 15, by inserting:

“(5) The commission may resume price cap regulation of a local exchange carrier, deregulated under this subsection upon finding, after a hearing, that such carrier has: Violated minimum quality of service standards pursuant to subsection (1) of K.S.A. 66-2002, and amendments thereto; been given reasonable notice and an opportunity to correct the violation; and failed to do so.

(6) Prior to January 1, 2007, the commission shall determine the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2006. Prior to January 1, 2009, and every three years thereafter, the commission shall determine the weighted, average rate of nonwireless basic local telecommunications services in exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C) or (D). The commission shall report its findings on or before February 1, 2009, and every three years thereafter to the governor and to the legislature. If the commission finds that the weighted, average rate of nonwireless basic local telecommunications service, in exchanges that have been price deregulated pursuant to subsection (q)(1)(B), (C) or (D) in any three year period is greater than the weighted, statewide average rate of nonwireless basic local telecommunications service as of July 1, 2006, multiplied by one plus the percentage increase in the consumer price index for goods and services for the study periods, the commission shall recommend to the governor and the legislature such changes in state law as the commission deems appropriate.”;

Also on page 9, in line 16, by striking “(5)” and inserting “(7)”; in line 20, by striking all after “services.”; in line 21, by striking “tance service.”; also in line 21, before the semicolon, by inserting “. Packages or bundles of services shall not include intraLATA and interLATA long distance service”; in line 29, by striking “and”; in line 32, by striking the period and inserting “; and”; following line 32, by inserting:

“(E) “facilities based carrier” means a telecommunications carrier or entity providing local telephone service either wholly or partially over its own network. Facilities based carrier shall not include any radio communication services provider licensed by the federal communications commission to provide commercial mobile radio services.”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 503** 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 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 Jordan in the chair.

On motion of Senator Jordan the following report was adopted:

Recommended **SB 448** be passed.

SCR 1619, SCR 1620 be adopted.

SR 1809 be amended by adoption of the committee amendments, and the resolution be adopted as amended.

SB 475 be amended by adoption of the committee amendments, be further amended by motion of Senator Journey, as amended by Senate Committee, on page 2, in line 39, by striking "2006" and inserting "the fiscal year ending June 30, 2007,;" also in line 39, by striking "2010" and inserting "the fiscal year ending June 30, 2011", and **SB 475** be passed as further amended.

SB 322 be amended by adoption of the committee amendments, be further amended by motion of Senator Journey, as amended by Senate Committee, on page 6, by striking all of lines 39 through 43;

On page 7, by striking all of lines 1 through 12 and inserting the following:

"(j) (1) For the purposes of provisions (1) and (2) of subsection (i) of this section, the director may require verification by an owner's or driver's insurance company or agent thereof that there was in effect at the time of the accident an automobile liability policy as required in this act.

(2) Subject to the provisions of subsection (k), any suspension or revocation effected hereunder shall remain in effect until such person:

(A) Has filed satisfactory proof of financial security with the director as required by subsection (d) of K.S.A. 40-3118 and amendments thereto;

(B) has paid the reinstatement fee herein prescribed; and

(C) (i) has been released from liability;

(ii) is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action;

(iii) has entered into an agreement for the payment of damages; or

(iv) has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director.

(3) The reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$300.

(k) (1) Whenever any person involved in an accident whose license has been suspended or revoked pursuant to this section has a judgment rendered against such person and such person fails to satisfy the judgment within 60 days, the clerk of the court in which any such judgment is rendered within this state shall transmit to the secretary of revenue a copy of such judgment immediately after the expiration of 60 days. If the defendant named in any copy of a judgment transmitted to the secretary of revenue is a nonresident, the secretary shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

(2) Except as provided in paragraphs 4, 5 and 6 of this subsection, upon the receipt of a copy of a judgment, the secretary of revenue shall immediately suspend the defendant's license and registration. If the defendant is a nonresident, the secretary of revenue shall immediately suspend the nonresident's privilege to operate a motor vehicle in this state.

(3) Except as provided in paragraphs 4, 5 and 6 of this subsection, the defendant's license, registration and nonresident's privilege to operate a motor vehicle in this state shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until:

(A) Every such judgment is stayed, satisfied or discharged; and

(B) the defendant gives proof of financial responsibility.

(4) Upon due notice to the judgment creditor, a judgment debtor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments. The court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

(5) When the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of such judgment in installments, the secretary of revenue shall not suspend a license, registration or a nonresident's privilege to operate a motor vehicle in this state, and shall restore any license, registration or nonresident's privilege to operate a motor vehicle in this state which has been suspended following nonpayment of a judgment whenever the payment of any such installment is not in default.

(6) In the event the judgment debtor fails to pay an installment as specified by such order, the secretary of revenue, upon receipt of notice of such default from the court, shall immediately suspend the license, registration or nonresident privilege to operate a motor vehicle in this state until such judgment is satisfied as required by this act.”;

Also on page 7, in line 13, by striking “(k)” and inserting “(l)”; in line 16, by striking “(l)” and inserting “(m)”

Senator Journey moved to reconsider his motion to amend **SB 322**. The motion carried and the amendment was withdrawn.

The Committee recommended **SB 322** as amended by adoption of the committee amendments, be passed over and retain a place on the calendar.

SB 331 be passed over and retain a place on the calendar.

CHANGE OF REFERENCE

The President withdrew **SB 322** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Financial Institutions and Insurance.

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 448**, **SB 475**; **SCR 1619**, **SCR 1620**; **SR 1809** were advanced to Final Action and roll call.

SB 448, An act concerning recall petitions; pertaining to the time for filing court proceedings; amending K.S.A. 2005 Supp. 25-4308 and 25-4322 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, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: O'Connor.

The bill passed.

SB 475, An act concerning economic development; relating to the economic development initiatives fund; creating the state affordable airfare fund to support certain programs; amending K.S.A. 2005 Supp. 79-4804 and repealing the existing section.

On roll call, the vote was: Yeas 35, Nays 2, Present and Passing 2, Absent or Not Voting 1.

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

Nays: Brungardt, Steineger.

Present and Passing: Haley, Taddiken.

Absent or Not Voting: O'Connor.

The bill passed, as amended.

SCR 1619, A concurrent resolution requesting the creation of a task force to study the design and implementation of an electronic motor vehicle financial security verification

system for real time verification of compliance with the financial security requirements of the Kansas automobile injury reparations act.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The resolution was adopted.

SCR 1620, A concurrent resolution urging support of "25 by 25".

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The resolution was adopted.

SR 1809, A resolution congratulating and commending the Kansas Pork Association on its 50th anniversary.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, 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: O'Connor.

The resolution was adopted, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Friday, February 17, 2006.

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

PAT SAVILLE, *Secretary of the Senate*.

