

Journal of the Senate

FIFTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 24, 2009—10:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
During General Orders
Senators address the Chair.
There are at least two reasons
For addressing the person there.
There has to be an authority
Who keeps procedure in line.
Senators addressing the Chair
Help debates to remain benign.
O God, these rules of order
Should be a model of what we do.
The way that we treat each other
Should be the same as we treat You.
The Lord sits on His Throne,
And we can never afford
To say something to each other
That we should not say to the Lord.
I pray in the Name of Jesus Christ,
AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture: **HB 2295**.
Committee of the Whole: **SR 1859**.
Public Health and Welfare: **HB 2310, HB 2366**.
Transportation: **SCR 1617**.
Ways and Means: **SB 330**.

MESSAGE FROM THE HOUSE

Announcing passage of **HCR 5018**.
The House concurs in Senate amendments to **HB 2171**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5018 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1858—

A RESOLUTION in memory of Ray Shepherd.

WHEREAS, Ray Shepherd passed away Monday, March 2, 2009, at age 89. Mr. Shepherd is survived by his wife of 67 years, Mary; their son, David, and his wife Sharon; their daughter, Marilyn Warner and her husband Jim; their three grandchildren; and their two great-grandchildren; and

WHEREAS, Mr. Shepherd founded Ray Shepherd Motors in 1952 in Fort Scott, Kansas, which grew to become Shepherd Team Auto Plaza, serving thousands of customers from the area; and

WHEREAS, Mr. Shepherd's deep commitment to the Fort Scott community was demonstrated through his membership in First Christian Church, Rotary, Masonic Lodge, Scottish Rite and White Shrine; through serving as President of Fort Scott Industries and the Fort Scott Area Chamber of Commerce and as Chairman of Bourbon County United Way and the Security State Bank; and

WHEREAS, Ray Shepherd further served the community as a board member for Mercy Hospital, the Small Business Administration and the Automotive Technology Board of Pittsburg State University; as well as serving on the Ford Motor Company Governmental Affairs Committee for the State of Kansas, the State of Kansas Bank Commission and two terms as a Kansas State Highway Commissioner; and

WHEREAS, Mr. Shepherd also served the auto industry he loved so much through working on many dealer councils and advertising associations, serving as President of the Kansas Automobile Dealers Association and providing nine years of service on the Board of Directors of the National Automobile Dealers Association; and

WHEREAS, In 1981, Ray Shepherd was honored as the Time Magazine National Quality Dealer of the Year at the NADA Convention in Los Angeles; and

WHEREAS, Ray Shepherd's service to his community and customers made him a business icon for Fort Scott and a model citizen for all of Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Ray Shepherd for the service he provided for his community and that we extend our deepest sympathy to his wife Mary, family and friends; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator Bob Marshall.

On emergency motion of Senator Marshall **SR 1858** was adopted unanimously.

Senator Marshall introduced Mr. Shepherd's son, David and his wife, Sharon, granddaughter, Molly Mosher, great granddaughter, Grace Mosher and a friend, Don McNeely

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

SENATE RESOLUTION No. 1860—

A RESOLUTION congratulating and commending the Hayden High School girls golf team.

WHEREAS, The Hayden High School girls golf team won the 2008 4A State Golf Championship; and

WHEREAS, During the 2008 season, the Hayden girls golf team captured the Centennial League Tournament Championship, the Regional 4A Championship and the State 4A Championship; and

WHEREAS, The team members are Juniors Gracie Bagley, Janet Lierz, Courtney Koehn, Morgan Trobough and Lauren Falley and Freshman Brooke LaRue; and

WHEREAS, The team was led by City Coach of the Year, Coach Denis Stanley; and

WHEREAS, In the State Tournament the Hayden girls had a dominating performance with Lauren Falley finishing in first place, Brooke LaRue capturing fourth place and Morgan Trobough finishing in fifth place; and

WHEREAS, This outstanding performance by a young team is indicative of the poise and dedication that guided the team throughout the season: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Hayden High School girls golf team for an outstanding season and wish them future success; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Laura Kelly.

On emergency motion of Senator Kelly **SR 1860** was adopted unanimously.

Team members Gracie Bagley, Janet Lierz, Courtney Koehn, Morgan Trobough, Lauren Falley and Brooke LaRue were introduced and recognized with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 329** be passed.

POINT OF PERSONAL PRIVILEGE

Senator Apple rose on a point of personal privilege to introduce the family in representation of the Kelsey Smith Act pertaining to Senate Substitute for **HB 2126**. The following are Kelsey's family: Greg and Missey Smith, parents, Stevie Hockersmith, sister, and Lindsey and Ryan Evans, sister and brother-in-law.

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 Brungardt in the chair.

On motion of Senator Brungardt the following report was adopted:

SCR 1611 be adopted.

A motion by Senator Haley to amend **SCR 1611** failed and the following amendment was rejected: on page 2, line 8, by striking "general" and inserting "primary".

The committee report on **HB 2126** recommending a **S Sub for HB 2126** be adopted, and the substitute bill be passed.

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 **SCR 1611**; **S Sub for HB 2126** were advanced to Final Action and roll call.

SCR 1611, A PROPOSITION to amend section 4 of the bill of rights of the constitution of the state of Kansas, relating to the right to bear arms.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Haley.

A two-thirds constitutional majority having voted in favor of the resolution **SCR 1611** was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I support **SCR 1611**. This constitutional amendment confirms that the right of individual Kansans to keep and bear arms is paramount and a guarantee of liberty.

Our legislative intent is clear and is similar to the that of our founding fathers. In The Federalist Papers Number 29, *Alexander Hamilton* did not view the right to keep arms as being confined to active militia members but individuals.

"Little more can reasonably be aimed at with the respect to the people at large than to have them properly armed and equipped"

James Madison in Federalist No. 46 wrote: "Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached, forms a barrier against the enterprises of ambition,"

Tench Coxe published his “Remarks on the First Part of the Amendments to the Federal Constitution,” in the Federal Gazette, June 18, 1789. He was a contemporary of Madison pointed out that the individual right to bear arms is the preservation of individual liberty. He said: “the people are confirmed by the next article in their right to keep and bear their private arms.”—JEFF COLYER

Senators Abrams, Lynn and Peterson request the record to show they concur with the “Explanation of Vote” offered by Senator Colyer on **SCR 1611**.

MR. PRESIDENT: I reluctantly vote “No” on **Senate Concurrent Resolution 1611**. The *substance* of **SCR 1611** (or the *individual* right to keep and bear arms) does not, in my mind, outweigh the *procedure* of **SCR 1611**. The litmus test of Gun Rights should not be the qualification for otherwise good public officials to be elected. . . or not. By submitting this question to the November general election candidates who do not share my view of our codified Kansas constitution’s language regarding gun ownership may be unduly prejudiced in their attempt to join or rejoin our democracy. Diversity of thought and inclusion are crucially important concepts; enough for me to be unique in insuring the SCR’s *less* than unanimous passage here, now.—DAVID HALEY

MR. PRESIDENT: For many years, the citizens of Kansas have operated under the assumption that they possess an individual, Constitutional right to gun ownership. And we celebrated the decision last summer of the U.S. Supreme Court in *Heller vs. D.C.* confirming this individual right is enshrined in our U.S. Constitution.

However, we remain troubled. The *Heller* decision was a very narrow 5-4 vote and could be overturned by a new Justice appointment to the Court. And now we learn that the Kansas Supreme Court, in a unanimous decision more than 100 years ago, ruled there are no individual rights to gun ownership in our Kansas Constitution.

We can no longer await or hope for the right decision from the Judiciary. Instead, it is time to allow Kansans a voice on this matter. By offering this proposed Constitutional Amendment, our citizens will have the final say—shall we have an individual right to gun ownership in Kansas, or shall the state control and dictate who may own or use a gun.

Mr. President, I am very hopeful that the majority of Kansas will agree—the power shall rest with the citizens, not with the government.—TIM HUELSKAMP

Senators Abrams, Lynn, Ostmeyer and Petersen request the record to show they concur with the “Explanation of Vote” offered by Senator Huelskamp on **SCR 1611**.

MR. PRESIDENT: I vote Aye. The *City of Salina v. Blaksley*, 72 Kan. 230, 83 P. 619 (1905), interpreted Section 4 of the Kansas Bill of Rights as guaranteeing no individual right to keep arms or to bear arms. The court held “It deals exclusively with the military. Individual rights are not considered in this section.” To drive home this point, the court concluded: “The defendant was not a member of an organized militia, nor of any other military organization provided for by law, and was therefore not within the provision of the Bill of Rights, and was not protected by its terms.” The court also applied this holding to the Second Amendment. *Blaksley* thus judicially repealed the right to bear arms by holding it only belongs to the military while on duty. This is at odds with the constitution’s words and with history. The U.S. Supreme Court rejected this erroneous “collective right” holding on the Second Amendment in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008). The Kansas Legislature and the people of Kansas should also reject this erroneous application to the Kansas Bill of Rights by exercising their right to amend the Kansas Constitution.—MIKE PETERSEN

Senators Apple, Bruce, Colyer, Huelskamp, Kelly, Kelsey, Lynn, Marshall, Masterson, Ostmeyer, Pilcher-Cook, Schodorf, Steineger, Taddiken and Teichman, request the record to show they concur with the “Explanation of Vote” offered by Senator Petersen on **SCR 1611**.

S Sub for HB 2126, An act concerning telecommunications; relating to providing caller location in emergency situations; relating to enhanced wireless 911 service; concerning certain fees and disposition thereof; relating to audits of certain systems; establishing the joint committee on enhanced and next generation 911; definitions; amending K.S.A. 2008 Supp. 12-5322, 12-5323, 12-5334, 12-5338 and 12-5361 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The substitute bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I stand in strong support of **Senate Substitute for House Bill 2126**, that contains the Kelsey Smith Act.

The Kelsey Smith Act will honor the life of a young lady who tragically lost her life at the hands of her abductor in June of 2007. Nothing we do will change the outcome of that terrible day. We can, however, strive to make Kansas safer by requiring wireless telecommunication carriers to cooperate with law enforcement when there is risk of death or serious bodily harm.

The system usually works but in this instance, it did not. Hopefully another family will not have to wait four days to locate a missing loved one. This bill will also disseminate critical contact information to our 911 centers. The Kansas Bureau of Investigation will lead this effort.

This bill will also convene a legislative task force to evaluate our current 911 system to ensure we will have adequate funding and state of the art equipment across Kansas.—PAT APPLE

Senators Abrams, Brownlee, Bruce, Colyer, Lynn, McGinn, Ostmeyer, Owens, Peterson, Taddiken and Umbarger request the record to show they concur with the "Explanation of Vote" offered by Senator Apple on **S Sub HB 2126**

On motion of Senator D. Schmidt, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE GOVERNOR

SB 46, SB 77, SB 187 approved on March 24, 2009.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS TECHNOLOGY ENTERPRISE CORPORATION

March 23, 2009

Tracy Taylor, KTEC President and CEO, submitted the 2008 KTEC Annual Report.

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

REFERRAL OF APPOINTMENTS

President Morris withdrew the appointments of E. J. "Ned" Holland, Jr., Joe Lee Tilghman and Garen Lorimer Cox to the Kansas Health Policy Authority from the calendar under the heading of Consideration of Appointments and referred them to the Committee on **Public Health and Welfare**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Faust-Goudeau introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1857—

A RESOLUTION congratulating and commending Joanna Behrman.

WHEREAS, Joanna Behrman, an esteemed resident of Wichita, Kansas, and a student at Wichita High School East, has achieved national recognition for exemplary volunteer service by being named a Distinguished Finalist for the 2009 Prudential Spirit of Community Award; and

WHEREAS, This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Behrman earned this award by giving generously of her time and energy to the Diversity Kansas program, where she serves as an intern; and

WHEREAS, Ms. Behrman helps run the “Use Another Word Please” program; and

WHEREAS, The “Use Another Word Please” program discourages the use of offensive or derogatory language among high school students, encouraging them to use sensitive and encouraging language instead; and

WHEREAS, Ms. Behrman promotes the program with posters and buttons, speaks to students and administrators, and encourages students to sign pledges promising to refrain from using insensitive words; and

WHEREAS, The success of the State of Kansas, the strength of our communities, and the overall vitality of American society depends, in great measure, upon the dedication of young people like Ms. Behrman, who use their considerable talents and resources to serve others: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Ms. Behrman for being named a Distinguished Finalist for the Prudential Spirit of Community Award, that we recognize her outstanding record of volunteer service, peer leadership and community spirit and that we extend our best wishes for her continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Oletha Faust-Goudeau.

On emergency motion of Senator Faust-Goudeau **SR 1857** was adopted unanimously. JoAnna and her mother, Elizabeth, were introduced and welcomed with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **SB 308, SB 326** be passed.

Also, **HB 2072**, as amended by House Committee, be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2072,” as follows:

“SENATE Substitute for HOUSE BILL No. 2072

By Committee on Ways and Means

“AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; employment after retirement; disability benefits; membership election, requirements and contributions; amending K.S.A. 74-4937 and K.S.A. 2008 Supp. 74-4914 and 74-4960a and repealing the existing sections.” and the substitute bill be passed.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2014**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

PAT APPLE
MIKE PETERSEN
JANIS K. LEE

Conferees on part of Senate

CARL DEAN HOLMES
FORREST KNOX

Conferees on part of House

On motion of Senator Apple, the Senate adopted the conference committee report on **HB 2014**, and requested a new conference committee be appointed.

The President appointed Senators Apple, Petersen and Lee as a second Conference Committee on the part of the Senate on **HB 2014**.

COMMITTEE OF THE WHOLE

On motion of Senator V. 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 Brungardt in the chair.

On motion of Senator Brungardt the following report was adopted:

Recommended: **SB 312** be passed.

SB 242 be amended by adoption of the committee amendments, and the bill be passed as amended.

SR 1859 be adopted.

S Sub for HB 2354 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Vratil, on page 49, in line 26, by adding \$1,200,000 to the dollar amount and adjusting the dollar amount in line 26 accordingly;

On page 115, following line 36, by inserting:

“(c) There is appropriated for the above agency from the children’s initiatives fund for the fiscal year ending June 30, 2010, the following:

Children’s health insurance program	\$1,200,000
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Provided, That any unencumbered balance in the children’s health insurance program account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010.”

S Sub HB 2354 be further amended by motion of Senator Barnett, on page 49, in line 26 by adding \$328,465 to the dollar amount and adjusting the dollar amount in line 26 accordingly;

On page 99, following line 25, by inserting the following:

“Primary care clinics	\$328,465
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Provided, That any unencumbered balance in the primary care clinics account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010.”

S Sub HB 2354 be further amended by motion of Senator V. Schmidt, on page 288, following line 20, by inserting:

“Sec. 151. Section 3 of chapter 159 of the 2008 Session Laws of Kansas is hereby amended to read as follows: Section 3. (a) There is hereby appropriated for the state finance council from the state general fund for the fiscal year or years specified, the following:

Classified salary market adjustments (including fringe benefits)	
For the fiscal year ending June 30, 2010.....	\$8,534,972
For the fiscal year ending June 30, 2011.....	\$8,534,972
For the fiscal year ending June 30, 2012.....	\$8,534,972
For the fiscal year ending June 30, 2013.....	\$8,534,972
For the fiscal year ending June 30, 2014.....	\$8,534,972

Provided, That all moneys in the classified salary market adjustments (including fringe benefits) account for each such fiscal year shall be used for the purpose of paying the proportionate share of the cost to the state general fund of the salary market adjustments, including associated employer contributions, for executive branch classified employees in positions in job classifications that are reassigned under the market adjustment component during the fiscal year and, upon recommendation of the director of the budget, the state finance council, acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, except paragraph (3) of such subsection (c), is hereby authorized to approve

the transfer of moneys from the appropriation under this subsection (a) by the director of accounts and reports, who is hereby authorized and directed to make such transfers in accordance with each such approval, to the proper accounts created by state general fund appropriations for the fiscal year for which such transfers are so approved under this subsection (a).

(b) Upon recommendation of the director of the budget, the state finance council, acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, except paragraph (3) of such subsection (c), is hereby authorized to approve increases in expenditure limitations on special revenue funds and accounts established for each fiscal year designated in subsection (a), for each such fiscal year, commencing with the fiscal year ending June 30, 2009, by the director of accounts and reports, who is hereby authorized and directed to increase expenditure limitations on such special revenue funds and accounts in accordance with such approval, for the purpose of paying from such funds or accounts the proportionate share of the cost to such funds or accounts, including associated employer contributions, of the salary increases and other amounts specified in subsection (a) for each such fiscal year, commencing with the fiscal year ending June 30, 2009.

(c) The director of the budget, on behalf of the executive branch of state government, shall prepare a budget estimate based upon the most recent payroll information for the salary increases and other amounts specified in subsection (a), and all amendments and revisions of such estimate, and the director of the budget shall submit a copy of such estimate, and all amendments and revisions thereof, directly to the director of legislative research.

Sec. 152. Section 3 of chapter 159 of the 2008 Session Laws of Kansas is hereby repealed.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 17, after “amending” by inserting “section 3 of chapter 159 of the 2008 Session Laws of Kansas.”

S Sub HB 2354 be further amended by motion of Senator Taddiken, on page 96, after line 8, by inserting the following:

“Pregnancy maintenance initiative \$355,000

Provided, That any unencumbered balance in the pregnancy maintenance initiative account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010.”

S Sub HB 2354 be further amended by motion of Senator Huelskamp, on page 288, preceding line 21, by inserting the following:

“Sec. 151. (a) During the fiscal year ending June 30, 2010, any expenditures or grants of money by any state agency for family planning services financed in whole or in part from federal title V, title X, title XIX or title XX moneys shall be made subject to the following two priorities: First priority to public entities (state, county, local health departments and health clinics) and if any moneys remain then, second priority to non-public entities which are hospitals or federally qualified health centers that provide comprehensive primary and preventative care in addition to family planning services.

(b) As used in this section “hospitals” shall have the same meaning as defined in K.S.A. 65-425, and amendments thereto, and “federally qualified health center” shall have the same meaning as defined in K.S.A. 65-1669, and amendments thereto.”;

And by renumbering the remaining sections accordingly

Senator Huelskamp further amended **S Sub HB 2354** on page 288, following line 20, by inserting the following:

“Sec. 151. On and after the effective date of this act, during the fiscal year ending June 30, 2010, no moneys appropriated from the state general fund or in any special revenue fund shall be expended to provide for any person to use any aircraft owned or leased by the state for personal use: *Provided*, That the governor and any other state officer or employee shall use state aircraft only for official state business: *Provided further*, That if the governor or any other state officer or employee uses any state aircraft for travel that is not official business, such person shall reimburse the state of Kansas for the costs relating to such travel in an amount equal to the standard charter flight rate: *And provided further*, That if a private

citizen accompanies a state officer or employee on any state aircraft for travel, such person shall reimburse the state of Kansas for the costs relating to such travel in an amount equal to the standard charter flight rate: *And provided further*, That as used in this section, "official business" means any activity involving travel in a state aircraft if the activity is reasonably required, expected or appropriate, considering the nature of the governor's or other state officer or employee's job responsibilities: *And provided further*, That the activities shall include, but not be limited to, attendance by the governor or other state officer or employee at nonpartisan ceremonial functions and events where the governor's or other state officer or employee's appearance is normally expected by virtue of the function or where official representation of the state is otherwise appropriate, and to nonpolitical flights by the governor and the governor's family when accompanying or representing the governor: *And provided further*, That all moneys received for any such reimbursements shall be deposited in the state treasury to the credit of the state general fund."

And by renumbering the remaining sections accordingly

S Sub HB 2354 be further amended by motion of Senator Emler, on page 27, in line 21, by striking "fund" and inserting "account"; in line 26, by striking "fund" and inserting "account";

On page 60, in line 27, by decreasing the expenditure limitation on the MacVicar avenue assessment expense fund from no limit to \$0;

On page 145, in line 40, by adding \$3,750 to the dollar amount and by adjusting the dollar amount in line 40 accordingly;

On page 155, in line 12, by adding \$34,835 to the dollar amount and by adjusting the dollar amount in line 12 accordingly;

On page 160, in line 14, by subtracting \$83,958 from the dollar amount and by adjusting the dollar amount in line 14 accordingly;

On page 162, in line 24, by subtracting \$286,192 from the dollar amount and by adjusting the dollar amount in line 24 accordingly; in line 25 by subtracting \$802,683 from the dollar amount and by adjusting the dollar amount in line 25 accordingly; in line 28, by subtracting \$38,096 from the dollar amount and by adjusting the dollar amount in line 28 accordingly; in line 29, by subtracting \$2,507,975 from the dollar amount and by adjusting the dollar amount in line 29 accordingly; in line 31, by subtracting \$10,409 from the dollar amount and by adjusting the dollar amount in line 31 accordingly; in line 38, by subtracting \$1,870 from the dollar amount and by adjusting the dollar amount in line 38 accordingly;

On page 163, in line 21, by subtracting \$46,278 from the dollar amount and by adjusting the dollar amount in line 21 accordingly; in line 34, by subtracting \$18,619 from dollar amount and by adjusting the dollar amount in line 34 accordingly

S Sub HB 2354 be further amended by motion of Senator Teichman on
"Kansas foundation for agriculture project grant..... \$35,000

Provided, That expenditures from the Kansas foundation for agriculture project grant account shall be used for agriculture in the classroom programs to supplement existing elementary and secondary curricula with agricultural information: *Provided further*, That expenditures from this account shall be made only if private funding sources are available to match such state grants on a 60% state and 40% private basis."

S Sub HB 2354 be further amended by motion of Senator McGinn on page 287, by striking all in lines 18 through 43;

On page 288, by striking all in lines 1 through 20;

By renumbering the remaining sections accordingly, and **S Sub HB 2354** be passed as further amended.

The following amendments offered to **S Sub HB 2354** were rejected:

Senator Barnett moved to amend the bill on page 271, by striking all in lines 38 through 43;

On page 272, by striking all in lines 1 through 27

Senator Schmidt moved to amend the bill on page 225, by striking all in lines 20 through 24;

And by relettering the remaining subsection accordingly

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

On roll call, the vote was: Yeas 15, Nays 22, Present and Passing 0, Absent or Not Voting 3.

Yeas: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Owens, Petersen, Pyle, Reitz, Schmidt V, Teichman, Umbarger.

Nays: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Huelskamp, Kelsey, Lynn, Marshall, McGinn, Ostmeyer, Pilcher-Cook, Schmidt D, Schodorf, Steineger, Taddiken, Vratil, Wysong.

Absent or Not Voting: Masterson, Morris, Wagle.

The motion failed and the amendment was rejected.

Senator Masterson moved to amend the bill on page 27, line 20, by striking "all" after colon thru line 30, and page 29, line 5, striking "all" after colon thru line 14.

Sub SB 184; HB 2324 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a 2/3 constitutional majority, and **SB 242, SB 312; SR 1859; S Sub for HB 2354** were advanced to Final Action, subject to amendment, debate and roll call.

SB 242, An act concerning personal property taxation; relating to motor vehicles; computation of amount of tax; amending K.S.A. 79-5105 and repealing the existing section.

On roll call, the vote was: Yeas 16, Nays 24, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Barnett, Bruce, Donovan, Emler, Huelskamp, Kelsey, Marshall, Morris, Petersen, Pilcher-Cook, Schmidt D, Schodorf, Steineger, Umbarger, Wagle. Nays: Apple, Brownlee, Brungardt, Colyer, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Lee, Lynn, Masterson, McGinn, Ostmeyer, Owens, Pyle, Reitz, Schmidt V, Taddiken, Teichman, Vratil, Wysong.

A constitutional majority having failed to vote in favor of the bill, **SB 242** did not pass.

EXPLANATION OF VOTE

MR PRESIDENT: I vote NO on **SB 242**. While I support lowering property taxes on vehicles in Kansas, I do not support doing that on the backs of our local units of government. It is inappropriate that the legislature reduces the amount of revenues collected by local units of governments in order to increase the revenues coming to the state and to lower the property tax burden on vehicles. If **SB 242** were to pass, local units of government would be left with very little option other than to increase the property tax burden on our homes and businesses.—JANIS K. LEE

Senators Francisco, Hensley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Lee on **SB 242**.

SB 312, An act concerning property taxation; relating to public utilities; natural gas inventories; amending K.S.A. 2008 Supp. 79-5a01 and repealing the existing section.

On roll call, the vote was: Yeas 32, Nays 6, Present and Passing 2, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Huelskamp, Kelsey, Kultala, Lee, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Brownlee, Colyer, Lynn, Petersen, Pilcher-Cook, Wagle.

Present and Passing: Francisco, Kelly.

The bill passed.

SR 1859, A RESOLUTION supporting the Airborne Laser program and urging the United State Congress to provide the necessary funding for the on-going development and operation of the program.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The resolution was adopted.

S Sub for HB 2354, An act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012 and June 30, 2013, and June 30, 2014, 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 section 3 of chapter 159 of the 2008 Session Laws of Kansas, section 95 of 2009 House Substitute for Substitute for Senate Bill No. 23 and K.S.A. 2008 Supp. 2-223, 12-5256, 55-193, 75-6702, 76-7,107, 79-2959, 79-2964, 79-2978, as amended by section 88 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-2979, as amended by section 89 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-3425i, 79-4801 and 82a-953a and repealing the existing sections.

On roll call, the vote was: Yeas 26, Nays 14, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Donovan, Emler, Kelsey, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Colyer, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kultala, Lee, Pilcher-Cook, Pyle, Steineger.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **Senate Substitute for HB 2354** because the bill maintains funding for education, helps make health care more available and affordable, moves our budget near the point that expenditures equal revenues and helps keep Kansans at work.

We all recognize that the stimulus spending money that allows our budget to balance this year only represents a pain killer that eases the pain, but does not provide a cure. We know that eventually, everyone will share that pain.

Mr. President, the Kansas Legislature has made progress during an extremely challenging time. Working together, I am confident Kansas will return to a state of steady growth and prosperity.—JIM BARNETT

Senators Lynn and Schodorf request the record to show they concur with the "Explanation of Vote" offered by Senator Barnett on **S Sub for HB 2354**.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on this budget proposal. In these difficult times, it does not strike the right balance supporting essential services like schools, safety-net clinics, and law enforcement.

We are looking at a cliff in the next two years. This budget is not based on sound economic projections.

And we have made minimal effort to make a transition to more stable funding. We are sowing the seeds of a budget crisis that may actually be worse than what we imagined. It is setting up a perfect storm to raise taxes on working Kansans and cut critical programs at the height of the recession.

We made no attempt to reform the giant HMO called Medicaid, encourage excellent schools, or adopt more effective state programs.

Most importantly, there has been no consideration of the long term economic impacts on Kansas. We should use the breathing room gained from the stimulus package to stimulate economic growth rather than planning to raise taxes on working Kansans and businesses and cut programs for the most needy.—JEFF COYLER

Senators Brownlee and Faust-Goudeau request the record to show they concur with the "Explanation of Vote" offered by Senator Colyer on **S Sub for HB 2354**.

MR. PRESIDENT: I vote no on **Senate Substitute for House Bill 2354**. As amended by committee, the money committed to keeping our promise to fully fund the second phase of the state employee pay plan was drastically reduced. This plan would have improved the way Kansas compensates its state employees by bringing thousands of state employees' wages up to market. Unfortunately, by reducing this funding the Kansas Senate has not only broken our promise, but has essentially balanced the state budget on the backs of Kansas' dedicated state employees and their families.

In addition, the Children's Initiative Fund, the purpose for which is to fund vital early childhood education programs, has been unnecessarily raided to fund other health care programs. While I agree that it's vital the State find a way to fund health insurance for the 8,000 Kansas children who are currently living without coverage, such funding should have been secured through a more stable funding source such as the State General Fund, rather than the Children's Initiative Fund.—LAURA KELLY

Senators Hensley, Kultala and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Kelly on **S Sub for HB 2354**.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m, Wednesday, March 24, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

