

# Journal of the Senate

EIGHTEENTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, February 3, 2005—2:30 p.m.

The Senate was called to order by President Stephen Morris.

The roll was called with thirty-nine senators present.

Senator Bruce was excused.

President Morris introduced as guest chaplain, Rev. Lincoln Montgomery, Pastor, Tabernacle Baptist Church, Wichita, Kansas, who delivered the invocation:

Oh Lord, Our Lord, How Excellent is Your Name in all of the earth.

We enter into Your presence this day that you have given us.

Thankful for the proud, past and history of this state.

Praising you for the dedication and the commitment demonstrated by the men and women who now sit before me.

We ask now Lord, that you would grant us the wisdom necessary to guide us in the mist of our deliberations.

That you would touch us with the grace that has kept and sustained us.

That you would overshadow us with the same attitude of mercy that you demonstrate toward us each and every day of our lives.

I thank you Father that as we humble ourselves in Your Presence, that You will indeed grant the requests now laid at your feet.

Remind us now Lord, in closing that the quest of this hour as we deliberate the great issues of our state, is that we be both mindful and heedful of the words of the prophet Amos: "That Justice Ought Roll Down as Waters and Righteousness as a Mighty Stream."

In the Name of Christ we Pray

Amen

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 182**, An act concerning crimes, punishment and criminal procedure; amending K.S.A. 2004 Supp. 21-4603d and repealing the existing section, by Committee on Judiciary.

**SB 183**, An act concerning federally active licenses under the Kansas healing arts act; amending K.S.A. 65-2809 and repealing the existing section, by Committee on Public Health and Welfare.

**SB 184**, An act repealing K.S.A. 75-5010; concerning the division of aviation of the Kansas department of transportation, by Committee on Transportation.

**SB 185**, An act concerning environmental use controls; relating to rules and regulations; amending K.S.A. 2004 Supp. 65-1,232 and repealing the existing section, by Senator D. Schmidt.

**SB 186**, An act concerning employment; providing for a fair share representation fee to be paid to certain labor organizations under certain circumstances; relating to procedures, rights and duties; amending K.S.A. 44-803 and repealing the existing section, by Senators Hensley, Barone, Betts, Francisco, Gilstrap, Goodwin, Haley and Steineger.

**SB 187**, An act concerning the state minimum wage; amending K.S.A. 44-1203 and repealing the existing section, by Senators Hensley, Barone, Betts, Francisco, Gilstrap, Goodwin, Haley and Steineger.

**SB 188**, An act concerning public works projects for state agencies; prescribing payment of minimum wages for work thereon and preferences for certain employees to work thereon, by Senators Hensley, Barone, Betts, Gilstrap, Goodwin, Haley and Steineger.

**SB 189**, An act concerning retirement; relating to the Kansas public employees retirement system and systems thereunder; lump-sum death benefit; amending K.S.A. 74-4989 and repealing the existing section, by Senators Hensley, Barone, Betts, Gilstrap, Goodwin, Haley, Kelly, Lee and Steineger.

**SB 190**, An act concerning state educational institutions; relating to tuition and increases in the rate thereof, by Senators Hensley, Barone, Betts, Gilstrap, Goodwin, Haley, Lee and Steineger.

**SB 191**, An act concerning income taxation; relating to the earned income credit; amending K.S.A. 2004 Supp. 79-32,205 and repealing the existing section, by Senators Hensley, Barone, Betts, Gilstrap, Goodwin, Haley and Steineger.

**SB 192**, An act concerning property taxation; relating to exemptions; renewable energy resources or technology; amending K.S.A. 2004 Supp. 79-201 and repealing the existing section, by Committee on Assessment and Taxation.

**SB 193**, An act concerning property taxation; relating to foreclosure sales of real estate; mortgagees; amending K.S.A. 2004 Supp. 79-2804g and 79-2804h and repealing the existing sections, by Committee on Assessment and Taxation.

**SB 194**, An act concerning wildlife and parks; relating to commissioner permits, by Committee on Natural Resources.

**SB 195**, An act concerning firearms; relating to the disposition thereof after seizure; amending K.S.A. 79-5212 and K.S.A. 2004 Supp. 79-3235, 79-3617, 79-5205 and 79-5211 and repealing the existing sections, by Committee on Natural Resources.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **SB 173**.

Education: **SB 169, SB 174**.

Federal and State Affairs: **SB 168, SB 170, SB 172**.

Financial Institutions & Insurance: **SB 175, SB 176, SB 177, SB 178**.

Judiciary: **SB 171, SB 179, SB 180, SB 181**.

#### COMMUNICATIONS FROM STATE OFFICERS

##### KANSAS GUARDIANSHIP PROGRAM

January 31, 2005

Judge Frank J. Yeoman, Jr., Board of Directors, submitted the Kansas Guardianship Program Annual Report for 2004.

##### KANSAS SENTENCING COMMISSION

February 1, 2005

Patricia Biggs, Executive Director, submitted the Kansas Sentencing Commission's 2005 Annual Report.

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

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

## SENATE RESOLUTION No. 1808—

A RESOLUTION recognizing February as Black History Month.

WHEREAS, Throughout the history of America, truly significant African-American contributions to the economy, military, social growth, sciences and arts of this great nation have all too often been ignored. In recognition of this unfair distortion of the facts, Americans began recognizing “Black History Month” annually in 1926. We owe the celebration of Black History Month, and more importantly, the study of black history, to Dr. Carter G. Woodson; and

WHEREAS, The progress of African-Americans, both in the nation generally, and in the State of Kansas specifically, has been marked with both the tragedy of social inequalities and the triumph of group achievements; and

WHEREAS, The state of Kansas produced the monumental decision of *Brown v. The Board of Education of Topeka*, and is also home to the great black photographer Gordon Parks; and

WHEREAS, Although African-Americans have participated in every major United States war, the battle for integration and for recognition of the accomplishments of black soldiers has been a slow process. It wasn’t until after World War II that the United States Armed Forces became integrated, under a 1948 executive order by President Harry S. Truman; and

WHEREAS, Credit to blacks in the military has gradually been awarded where due and quite often where long overdue. One of the historical black regiments that exemplify the struggles and the contributions made by African-Americans in armed forces was the 54th Massachusetts Infantry, one of the first black units to join the Union during the Civil War. Sergeant William H. Carney from the 54th Massachusetts Infantry risked his life to take the flag and lead the troops after Colonel Robert Gould Shaw had been fatally wounded. Sergeant Carney was severely wounded by two bullets during the battle but survived to become the first African-American to be presented the Congressional Medal of Honor on May 23, 1900; and

WHEREAS, The courageous accomplishments of these many fearless soldiers are now recorded in history including: the Buffalo Soldiers of the Ninth and Tenth Cavalries and the 38th through 41st Infantries, all composed of African-American soldiers; and the Tuskegee Airmen of World War II headed by Captain Benjamin O. Davis, Jr., who would later become the first African-American Air Force General; and

WHEREAS, In the words of Carter Woodson, on the founding of Negro History Week in 1926, “We should emphasize not Negro History, but the Negro in history. What we need is not a history of selected races or nations but the history of the world void of national bias, race, hate and religious prejudice”: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That the body recognizes February as Black History Month, and further recognizes and applauds the sacrifices and myriad contributions made by African-American men and women throughout this great nation’s history.

On emergency motion of Senator Betts **SR 1808** was adopted unanimously.

Senators Barnett and Kelly introduced the following Senate resolution, which was read:

## SENATE RESOLUTION No. 1809—

A RESOLUTION encouraging participation in the American Heart Association’s Go Red for Women campaign.

WHEREAS, Friday, February 4, has been designated “National Wear Red Day for Women” by the American Heart Association. This action is part of the association’s Go Red for Women campaign to raise awareness of cardiovascular disease, women’s greatest killer, and to invite women to take charge of their heart health so as to be able to live a stronger, longer life; and

WHEREAS, Red is the American Heart Association’s color for women and heart disease. The association is encouraging everyone to wear some red item of clothing on February 4 in support of all women who have experienced heart disease or stroke; and

WHEREAS, Heart disease and stroke claim more women's lives each year than the next seven causes of death combined, and nearly twice as many as all forms of cancer, including breast cancer. This endeavor, hopefully, will raise women's awareness of this problem. Although 90% of women feel they have some control over their health, only 27% believe their health is a top priority. This lack of urgency about their health contributes to the death of more than 500,000 American women every year; and

WHEREAS, Women who contact the American Heart Association will be provided with suggestions and information including a comprehensive brochure on heart disease and stroke risk factors, a red dress pin and information regarding free lifestyle programs to improve their health: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we support the efforts of the American Heart Association in reducing women's heart problems and urge individual participation in the American Heart Association's Go Red for Women campaign; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Kevin M. Walker, American Heart Association, 6800 W. 93rd Street, Overland Park, KS 66212.

On emergency motion of Senator Barnett **SR 1809** was adopted unanimously.

#### REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **SB 48** be passed.

Committee on **Financial Institutions and Insurance** recommends **SB 100** be passed and because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **SCR 1602** be amended on page 1, in line 25, by striking "14" and inserting "17"; in line 28, preceding "one" by inserting "one person representing a health insurance plan appointed by the insurance commissioner from a list submitted by the Kansas association of health plans,"; in line 31, preceding "one" by inserting "one person representing a domestic life or health insurance company appointed by the insurance commissioner from a list submitted by the Kansas life and health insurance association,"; in line 39, preceding "one" by inserting "one person representing a life insurance company appointed by the insurance commissioner from a list submitted by the American council of life insurers,";

On page 2, in line 5, by striking "No other" and inserting "Other"; in line 6, by striking all following "shall" and inserting "be paid subsistence allowances and mileage as provided in K.S.A. 75-3223, and amendments thereto,"; and the concurrent resolution be adopted as amended.

Committee on **Transportation** recommends **SB 76, SB 119** be passed.

Also, **SB 124** be amended on page 1, in line 16, by striking "or high-"; in line 17, by striking "way"; also in line 17, by striking "or highway";

On page 3, in line 25, by striking "secondary road" and inserting "highway";

On page 6, in line 10, following "system" by inserting "or other state or federal systems";

On page 7, in line 1, following "system" by inserting "or other state or federal systems";

On page 8, in line 4, following "roads" by inserting "and highways"; and the bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**SB 65; SCR 1603** reported correctly engrossed February 3, 2005.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Friday, February 4, 2005.

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

PAT SAVILLE, *Secretary of the Senate.*

