

Journal of the Senate

FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, January 13, 2006—8:30 a.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with twenty-seven senators present.
Senators Apple, Barnett, Brownlee, Brungardt, Donovan, Gilstrap, Goodwin, Jordan, Lee, Morris, V. Schmidt, Schodorf, and Wagle were excused.
Vice President Vratil introduced as guest chaplain, Pastor Larry Latham, Westridge Baptist Church, Topeka, Kansas, who delivered the invocation:

Dear Father in heaven,
You are the giver and keeper of life.
Because of You we move and breathe, and are here in this chamber.
Life: a gift to enjoy and a gift to employ.

Dear Father who is in us,
Lift up each senator and those involved in establishing precepts for this great state,
That they will use the wisdom given to them to establish principles of law, and to protect the family - most of all the children.

Dear Father who is with us,
We pray for each family whose loved one is here, whether near or far.
Keep them all safe and free from harm.
Tell them how much we appreciate the sacrifice it takes,
to accomplish the freedom and safety that we have.

Dear Father Who accomplishes all things,
When each person leaves this chamber instill in him a sense of achievement,
that everything possible was done,
to heighten the morals of this great state of Kansas.

Amen!

PRESENTATION OF PETITIONS

The following petition was presented, read and filed:

SP 1, by Senator Tim Huelskamp: A petition calling upon Kansas Legislature to pass a Constitutional amendment regarding the fundamental doctrine of Separation of Powers by declaring that the Judiciary has no authority to appropriate taxpayer funds and that such power is reserved exclusively to those elected to the Legislature by the citizens of Kansas, submitted by Charles Cole, Smith Center and 22 other constituents across the state of Kansas.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 365, An act enacting the Kansas estate tax act; repealing K.S.A. 2005 Supp. 79-15,100, 79-15,101, 79-15,102, 79-15,103, 79-15,105, 79-15,109, 79-15,111, 79-15,112, 79-15,113,

79-15,116, 79-15,117, 79-15,118, 79-15,119, 79-15,125, 79-15,128, 79-15,129, 79-15,130, 79-15,131, 79-15,132, 79-15,133, 79-15,134, 79-15,135, 79-15,136, 79-15,137, 79-15,138, 79-15,139, 79-15,140, 79-15,141, 79-15,142, 79-15,143, 79-15,144 and 79-15,145, by Committee on Assessment and Taxation.

SB 366, An act concerning crimes, punishment and criminal procedure; relating to departure sentencing; amending K.S.A. 2005 Supp. 21-4716 and repealing the existing section, by Senator Petersen.

SB 367, An act concerning elections; relating to campaign finance; amending K.S.A. 25-4153 and repealing the existing section, by Committee on Education.

SB 368, An act concerning state officers and employees; relating to governmental ethics; amending K.S.A. 46-237 and K.S.A. 2005 Supp. 46-237a and repealing the existing sections, by Committee on Education.

SB 369, An act concerning school finance; relating to local option budgets; amending K.S.A. 2005 Supp. 72-6433 and repealing the existing section; also repealing K.S.A. 72-6444, by Committee on Education.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Assessment and Taxation: **SB 356, SB 357, SB 358, SB 359.**

Commerce: **SB 360.**

Judiciary: **SB 361, SB 363; SCR 1615.**

Natural Resources: **SB 362.**

Ways and Means: **SB 364.**

CHANGE OF REFERENCE

The Vice President withdrew **SB 87** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on Ways and Means.

COMMUNICATIONS FROM STATE OFFICERS

ADJUTANT GENERAL'S DEPARTMENT

Major General Tod M. Bunting, Adjutant General, Kansas National Guard, submitted the Annual Report for 2005.

The Vice 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.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 326** be amended on page 1, in line 16, by striking "to" and inserting "by";

On page 2, in line 4, after "action" where it appears the second time, by inserting "had commenced pursuant to this act";

On page 3, following line 21, by inserting the following:

"Sec. 2. K.S.A. 21-3910 is hereby amended to read as follows: 21-3910. (a) Misuse of public funds is *knowingly*:

(1) Using, lending or permitting another to use, public money in a manner not authorized by law, by a custodian or other person having control of public money by virtue of such person's official position;

(2) *attempting to obtain, authorizing, attempting to authorize or allowing any payment for medicaid services that exceeds the limitations of federal laws, rules and regulations, Kansas laws, rules and regulations, or the terms of the Kansas medicaid plan or the provider manual; or*

(3) *by-passing or overriding an edit, attempting to by-pass or override an edit or allowing an edit to be by-passed or overridden, including, but not limited to, deactivation of any edit, in any claims submission or processing system used by the Kansas medicaid program or any of its contractors, unless such conduct is consistent with existing written exceptions established by, or with the express written approval of, an official of the Kansas single state medicaid agency who is authorized to make such exceptions.*

(b) As used in this section, "public money," means any money or negotiable instrument which belongs to the state of Kansas or any political subdivision thereof, *including money provided to the state of Kansas by the federal government.*

~~(c) Misuse of public funds is a severity level 8, nonperson felony. (1) Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is \$100,000 or more is a severity level 5, nonperson felony.~~

~~(2) Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is at least \$25,000 but less than \$100,000 is a severity level 7, nonperson felony.~~

~~(3) Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.~~

~~(4) Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is less than \$1,000 is a class A nonperson misdemeanor. Upon conviction of misuse of public funds, the convicted person shall forfeit the person's official position, and shall thereafter be prohibited from holding any official, employee or contract position with the state of Kansas or any political or taxing subdivision, when such convicted person would have control of public money by virtue of such person's official position.~~

Sec. 3. K.S.A. 21-3910 is hereby repealed.";

And by renumbering the remaining section accordingly;

In the title, in line 10, before the period, by inserting "; amending K.S.A. 21-3910 and repealing the existing section"; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, January 17, 2006.

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

PAT SAVILLE, *Secretary of the Senate.*

