

Journal of the Senate

FIFTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, February 2, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-eight senators present.
Senators Hensley and Pyle were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,
Last week I was thinking
About what I should pray.
A sense of humor crossed my mind,
But is this the appropriate day?

There's so much on their mind, O God,
With controversial bills;
Perhaps each waking moment
Is probably more than filled.

On the other hand . . .
It may be just the time
Humor is what they need
To loosen everybody up,
Even help them to succeed.

So when the mood gets tense
And tempers start to flare,
I pray that someone will step in
And spread some humor there.

And if I may be bold, O God,
If there's anyone who can;
It's the Senator in charge of humor,
Senator Donovan is the man!

I pray in the Name of Jesus Christ,
AMEN

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

SB 152, An act concerning motor carriers; relating to regulation thereof; amending K.S.A. 2008 Supp. 66-1,129 and repealing the existing section, by Committee on Transportation.

SB 153, An act concerning motor vehicles; concerning the regulation thereof; relating to motor carriers; amending K.S.A. 2008 Supp. 66-1,108 and 66-1,109 and repealing the existing sections, by Committee on Transportation.

SB 154. An act concerning civil procedure; relating to habeas corpus; infectious disease; amending K.S.A. 60-1505 and repealing the existing section, by Committee on Judiciary.

SB 155. An act concerning the secretary of health and environment; relating to powers and duties; fingerprinting and criminal history records checks for certain employees; amending K.S.A. 65-2402 and repealing the existing section, by Committee on Judiciary.

SB 156. An act concerning corporations; relating to close corporations; amending K.S.A. 17-7207 and repealing the existing section, by Committee on Judiciary.

SB 157. An act relating to drivers' licenses; concerning driver improvement clinics; providing for the disposition of certain moneys; amending K.S.A. 2008 Supp. 8-255 and 8-267 and repealing the existing sections, by Committee on Judiciary.

SB 158. An act concerning driver's licenses; relating to restrictions for certain persons; amending K.S.A. 2008 Supp. 8-2110 and repealing the existing section, by Committee on Judiciary.

SB 159. An act concerning tobacco; relating to the enforcement of the laws regarding the sale of cigarettes; amending K.S.A. 50-6a04 and repealing the existing section, by Committee on Judiciary.

SB 160. An act concerning the minimum wage and maximum hours law; amending K.S.A. 44-1203 and repealing the existing section, by Senators Francisco, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kutala, Reitz, Steineger and Wysong.

SB 161. An act concerning recreation commissions; amending K.S.A. 2008 Supp. 12-1928 and repealing the existing section, by Committee on Education.

SB 162. An act concerning school districts; relating to disability history and awareness, by Committee on Education.

SB 163. An act amending the consumer protection act; amending K.S.A. 50-624 and 50-626 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 164. An act concerning municipalities; concerning official newspapers and official municipality internet web sites; amending K.S.A. 12-1651 and 64-101 and repealing the existing sections, by Committee on Ways and Means.

SB 165. An act concerning the state water plan fund; relating to increasing fees that contribute to the fund; amending K.S.A. 70a-102 and K.S.A. 2008 Supp. 2-1205, 2-2204, 82a-954 and 82a-2101 and repealing the existing sections, by Committee on Ways and Means.

SB 166. An act repealing K.S.A. 2008 Supp. 39-7,121b; relating to medication for Medicaid recipients, by Committee on Ways and Means.

SB 167. An act concerning public health; relating to hospitals and related facilities; increasing the enforceable limit of a hospital lien; amending K.S.A. 65-406 and repealing the existing section, by Committee on Ways and Means.

SB 168. An act concerning electronic transactions; making certain acts unlawful; amending K.S.A. 16-1617 and repealing the existing section, by Committee on Ways and Means.

SB 169. An act concerning the Kansas act against discrimination; relating to sexual orientation; gender identity; amending K.S.A. 44-1001, 44-1002, 44-1004, 44-1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2008 Supp. 44-1005 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 170. An act providing for establishment of a data bank of available interpreters for certain purposes and development of qualifications for interpreters, by Committee on Public Health and Welfare.

SB 171. An act concerning Sherman county; pertaining to the election of county commissioners; amending K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and repealing the existing sections, by Senator Ostmeyer.

SB 172. An act amending the Kansas insurance score act; relating to prohibited acts; amending K.S.A. 2008 Supp. 40-5104 and repealing the existing section, by Committee on Ways and Means.

SB 173. An act relating to the state health care benefits program; concerning certain retired officers and employees; amending K.S.A. 2008 Supp. 75-6501 and repealing the existing section, by Committee on Ways and Means.

SB 174, An act concerning group life insurance; removing mandatory participation requirements; amending K.S.A. 2008 Supp. 40-433 and repealing the existing section, by Committee on Ways and Means.

SB 175, An act concerning school districts; relating to the powers and duties thereof, by Senator McGinn.

SENATE CONCURRENT RESOLUTION No. 1606—

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

A CONCURRENT RESOLUTION regarding the Kansas Legislature's opposition to the relocation of the Guantanamo Bay detainees to Ft. Leavenworth, Kansas or elsewhere within Kansas and urging the President of the United States and other members of the federal executive branch, to not consider Ft. Leavenworth or elsewhere in Kansas as a potential site for the relocation of the Guantanamo Bay detainees.

WHEREAS, Leavenworth County and the cities of Leavenworth and Lansing, Kansas and the State of Kansas strongly oppose the relocation of the Guantanamo detainees to Fort Leavenworth, Kansas; and

WHEREAS, The Military Disciplinary Barracks at Fort Leavenworth, unlike Guantanamo Bay, is not isolated from the surrounding civilian population, and would pose numerous safety, security, and economic hardships on all of Leavenworth County, and would negatively impact the municipal services, the local economy, and the security of the cities of Leavenworth and Lansing and the state of Kansas; and

WHEREAS, Increased security of Fort Leavenworth would close Fort facilities that are now available for some use by the civilian community, including Sherman Airfield which is the only public use airport in Leavenworth County and the Munson clinic and other facilities that are used by veterans, military retirees and the public; and

WHEREAS, Security concerns also include the fact that railroad right-of-way that trains use crosses through the Fort property; the Fort is small and houses over 3,000 residents; there are no emergency medical services or surgical services at the Fort and the only clinic is utilized by active duty soldiers, retirees and their families for medical care; the two small hospitals in town and the veterans facilities are not equipped to handle the security associated with serving Guantanamo Bay detainees; and

WHEREAS, Security concerns would not only be felt locally, but also throughout the Kansas metropolitan areas and the state of Kansas by becoming a high profile target for terrorism as a result of such relocation; and

WHEREAS, The Leavenworth County Sheriff's Office, as well as the Leavenworth and Lansing Police Departments are not fully capable of handling an international terrorist incident and the inevitable non-violent protests that would occur outside the Fort's gates since protests are not allowed on military institutions; and

WHEREAS, The Leavenworth Community has, from its inception, embraced Fort Leavenworth and neither the community nor the post could exist without each entity's support and the local economy is dependent on the families who are stationed at the Fort to further their academic enrichment; and

WHEREAS, Fort Leavenworth has always served a dual-mission, because the Command and General Staff College and the Military Barracks are both located on post; it is critical to keep education as the primary focus of this installation and if Guantanamo Bay detainees are relocated to Fort Leavenworth the growth of the installation would cease and future expansion of military educational services would not occur; and

WHEREAS, 2009 marked the 100th year anniversary of the International Military Student program at Fort Leavenworth; the program can trace its inception back to 1894 and graduated its first international student in 1908; over the past century, 25 graduates have become Heads of State, 300 have become head of their nation's military and over 2,000 have become Generals; as a result there are military and political leaders around the world who were schooled at Fort Leavenworth, lived in the city adjacent to the Fort and made

lifelong American friends; it is crucial, especially in the present state of international relations, that the international officers program at Fort Leavenworth remain strong and vital and if Guantanamo Bay detainees are relocated to Fort Leavenworth, many counties will not send military students and their families to America, impairing a significant contribution to international peace and understanding; and

WHEREAS, The Military Disciplinary Barracks at Fort Leavenworth is a conventional prison with only a handful of segregation units and most prisoners in large pods containing cells opening into a common area and it would be highly inappropriate to house foreign detainees with United States military prisoners; and

WHEREAS, The state, counties and cities have the responsibility for the safety of our citizens, local schools, businesses, and mutual aid for surrounding communities related to the detainee prison facility being located in Kansas and opposed the likely changes and relocation of the Command and General Staff College; the restricted access the relocation could cause for railroad traffic, and the increased negative publicity for the community from potential sympathizers of the detainees: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Kansas legislature strongly opposes the relocation of the Guantanamo Bay detainees to Fort Leavenworth, Kansas or elsewhere within Kansas and that the Legislature underscores its commitment to provide any and all support necessary to ensure the Guantanamo Bay detainees are not moved to Kansas.

Be it further resolved: That the Secretary of State provide enrolled copies of this resolution to President Obama, Vice President Biden, the Kansas congressional delegation, and Governor Kathleen Sebelius.

On emergency motion of Senator D. Schmidt, **SCR 1606** was adopted by voice vote.

Leavenworth guests introduced by Senator Kultala were Heather Morgan, Scott Miller, Ken Bernard, Lisa Weekly, Terry Weekly and Laura Gasbarre.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **SB 150**.

Ways and Means: **SB 151**.

CHANGE OF REFERENCE

The President withdrew **SB 141** from the Committee on **Judiciary**, and referred the bill to the Committee on **Ways and Means**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS ATTORNEY GENERAL
Abuse, Neglect and Exploitation Unit

January 29, 2009

Pursuant to KSA 75-723, Camie K. Russell, Director, submitted a hard copy and CD of the Annual Report to the Legislature for the period July 1, 2007 to June 30, 2008, of the ANE Unit, in the Office of Kansas Attorney General Steve Six.

KANSAS CORPORATION COMMISSION
Utilities Division

January 30, 2009

Pursuant to the provisions of KSA 66-117b, Thomas E. Wright, Chairman, submitted the Annual Report to the 2009 Legislature. This report can be viewed on the website at http://ks.gov/09_legis_rpt.pdf.

KANSAS GUARDIANSHIP PROGRAM

January 30, 2009

On behalf of the Board and staff of the Kansas Guardianship Program, Judge Frank J. Yeoman, Jr., submitted the 2008 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 D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1808—

A RESOLUTION congratulating and commending the West Elk High School boys' track and field team.

WHEREAS, The West Elk High School boys' track and field team won the 2008 Class 2A State Championship with 47 points; and

WHEREAS, The 2008 Class 2A State Championship was the first state title ever won by West Elk High School in any sport; and

WHEREAS, West Elk won the 2A state title with the help of the four gold medals won by junior Sonny Lee and senior Taylor Lowe; and

WHEREAS, Junior Sonny Lee won the 200 meter in 23.04 seconds, the 400 meter in 49.03 seconds and the high jump with a leap of 6 feet and 4 inches giving him a total of three gold medals; and

WHEREAS, Senior Taylor Lowe won a gold medal in the long jump with a jump of 20 feet and 10 ³/₄ inches; and

WHEREAS, West Elk also received some points in the tournament from Brett Koop's fifth place distance in the long jump of 20 feet 2 ³/₄ inches and his fourth place distance in the triple jump of 42 feet 4 ¹/₂ inches; and

WHEREAS, West Elk overcame the mid-tournament injury of Taylor Lowe with James Lear filling in for him in the 4x100 meter relay, helping C.J. Madison, Shane Hall and Sonny Lee earn an eighth place finish in the event; and

WHEREAS, West Elk has been led by the experience and wisdom of head coach Pat Simmons and assistant track coach Debbie Simmons; and

WHEREAS, Track and field is one of the more grueling high school sports, requiring these outstanding athletes to dedicate many hours to training; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the West Elk High School boys' track and field team and coach Simmons for being the 2008 Class 2A State Champions and bringing home the first ever state title to West Elk; and

Be it further resolved: That the Secretary of the Senate provide 15 enrolled copies of this resolution to Senator Schmidt for presentation to the West Elk boys' track and field team.

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

Team members Kyle Huntington, Charlie Hall, Shane Hall, James Lear, Tanner Weber, Taylor Lowe, Bailey Adams, Sonny Lee, Lucas Simmons, C.J. Madison, Jason Ledford, Head Coach Pat Simmons and Assistant Coach Track Pat Simmons were recognized with a standing ovation.

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

SENATE RESOLUTION No. 1809—

A RESOLUTION recognizing Justin Cessna for bringing the issue of health care provider coverage of bariatric surgical procedures to the attention of the Kansas Legislature and thanking the individuals who helped him receive this life-saving procedure.

WHEREAS, Bariatric surgery refers to the various surgical procedures performed to treat obesity by modification of the gastrointestinal tract to reduce nutrient intake and absorption; and

WHEREAS, During the 2008 Session, Justin Cessna brought the issue of health care provider coverage of bariatric surgical procedures to the Kansas Legislature, leading to the passage of House Bill 2672; and

WHEREAS, Justin Cessna was told by his doctors that unless he had a bariatric surgical procedure performed his life was at risk; and

WHEREAS, Medical studies have shown that long-term total mortality after bariatric surgery is significantly reduced, particularly for mortality rates from diabetes and heart disease; and

WHEREAS, Justin Cessna's bariatric surgical procedure was only made possible by the generosity of Dr. Bernita Berntsen of Tallgrass General, Vascular and Bariatric Surgery, who performed the surgery; Dr. James Hamilton, who advocated for Mr. Cessna and provided the surgical band for the procedure; Dr. David Bishop, who was the anesthesiologist for the procedure; and Michael Schrader, the President and CEO of St. Francis Health Center, who provided the facilities necessary for the procedure; and

WHEREAS, As a result of Justin Cessna's willingness to set aside his right to privacy to put a human face on the plight of the morbidly obese, Mr. Cessna not only received a life-saving procedure through the generosity of these individuals, but he has brought the issue of health care provider coverage of bariatric surgical procedures to the public's attention: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize Justin Cessna for bringing the issue of health care provider coverage of bariatric surgical procedures to the attention of the Kansas Legislature and that we thank those individuals whose generosity enabled him to receive this life-saving procedure.

Be it further resolved: That the Secretary of the Senate is directed to provide 6 enrolled copies of this resolution to Senator Barnett.

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

Senator Barnett introduced Justin Cessna and his son, Joshua, along with Dr. Bernita Berntsen, Dr. James Hamilton and Michael Schrader. Senators joined him in honoring them with a standing ovation.

REPORT ON ENGROSSED BILLS

Sub SB 23 reported correctly engrossed January 30, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Public Health and Welfare** recommends **SB 82** be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, February 3, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*
PAT SAVILLE, *Secretary of the Senate.*

