

Journal of the Senate

SEVENTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, February 4, 2009—2:30 p.m.

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

Heavenly Father,

I want to thank You for the book of Proverbs. Especially for some of my favorites:
The man of integrity walks securely, but he who takes crooked paths will be found out.

When words are many, sin is not absent, but he who holds his tongue is wise.
The integrity of the upright guides them, but the unfaithful are destroyed by their duplicity.

For lack of guidance a nation falls, but many advisors make victory sure.
One man gives freely, yet gains even more; another withholds unduly, but comes to poverty.

The Lord detests lying lips, but He delights in men who are truthful.
He who walks with the wise grows wise, but a companion of fools suffers harm.
A simple man believes anything, but a prudent man gives thought to his steps.
A patient man has great understanding, but a quick-tempered man displays folly.
Righteousness exalts a nation, but sin is a disgrace to any people.

I thank You 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 were introduced and read by title:

SB 193, An act concerning elections; pertaining to vacancy in the office of United States senator; amending K.S.A. 25-318 and repealing the existing section, by Senator Pyle.

SB 194, An act concerning school districts; relating to school finance; relating to the at-risk weighting; amending K.S.A. 2008 Supp. 72-6407 and 72-6414 and repealing the existing sections, by Legislative Committee on Post Audit.

SB 195, An act relating to insurance; providing reimbursement for orally administered anticancer medications; amending K.S.A. 2008 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Senator Wagle.

SB 196, An act concerning retirement and pensions; relating to employment after retirement; retirants employed by third-party entities; amending K.S.A. 2008 Supp. 74-4914 and repealing the existing section, by Joint Committee on Pensions, Investments and Benefits.

SB 197, An act concerning property taxation; relating to valuation and assessment; amending K.S.A. 79-411, 79-501, 79-5a04 and 79-1439a and K.S.A. 2008 Supp. 79-412, 79-

1439, 79-1448 and 79-1606 and repealing the existing sections, by Senators Pilcher-Cook, Brownlee, Huelskamp, Masterson, Petersen and Wagle.

SB 198, An act concerning counties; relating to the establishment of county consolidation commission, by Senator Steineger.

SB 199, An act concerning state agencies; relating to expenditures thereof, by Senator Hensley.

SB 200, An act concerning board of healing arts; relating to regulations of certain allied health professionals; amending K.S.A. 65-2006, 65-2014, 65-28a01, 65-28a05, 65-5401, 65-5501, 65-7201 and 65-7204 and K.S.A. 2008 Supp. 65-2910, 65-2912, 65-2922, 65-5410, 65-5510, 65-6901, 65-7208, 65-7301 and 65-7313 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 201, An act concerning the display of the flag of the United States at half-staff, by Senators Haley, Apple, Barnett, Bruce, Faust-Goudeau, Hensley, Holland, Kelly, Kelsey, Marshall, Masterson, Petersen, D. Schmidt and Schodorf.

SB 202, An act concerning abortion; amending K.S.A. 65-445 and 65-6703 and repealing the existing sections, by Senator Taddiken.

SB 203, An act concerning the secretary of agriculture; relating to powers and duties; amending K.S.A. 36-515 and K.S.A. 2008 Supp. 36-503, 36-510 and 74-598 and repealing the existing sections, by Committee on Agriculture.

SB 204, An act concerning the secretary of agriculture; relating to food safety and lodging; disposition of moneys; creating the food safety and lodging fee fund; amending K.S.A. 2008 Supp. 74-591 and repealing the existing section; also repealing K.S.A. 2008 Supp. 36-512, by Committee on Agriculture.

SB 205, An act concerning the development finance authority; relating to the refunding of bonds; amending K.S.A. 2008 Supp. 74-8905 and repealing the existing section, by Committee on Ways and Means.

SB 206, An act amending the Kansas insurance score act; definitions; amending K.S.A. 2008 Supp. 40-5103 and repealing the existing section, by Senators Faust-Goudeau, Kelsey and Masterson.

SB 207, An act making and concerning appropriations for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, and June 30, 2014, for the department on aging, the department of social and rehabilitation services and the department of health and environment — division of health; 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 208, An act concerning abolition of the death penalty; amending K.S.A. 21-3105, 21-4364, 21-4634, 21-4635, 21-4706, 22-3405, 22-3705, 22-3717, 22-4210, 22-4505 and 22-4506 and K.S.A. 2008 Supp. 21-4619, 22-4902, 38-2255, 38-2271, 38-2312, 38-2365, 39-970, 65-5117 and 75-52,148 and repealing the existing sections; also repealing K.S.A. 21-3439, 21-4622, 21-4623, 21-4624, 21-4627, 21-4629, 21-4630 and 22-3704, by Committee on Ways and Means.

SB 209, An act concerning teachers; relating to the licensure thereof, by Senator Kelsey.

SB 210, An act concerning elections; relating to election commissioners; amending K.S.A. 19-3419 and repealing the existing section, by Senators Hensley and Kultala.

SB 211, An act concerning journalists; providing a privilege with regard to certain disclosures of information, by Senators D. Schmidt and Hensley.

SB 212, An act concerning alcoholic beverages; concerning shipment of wines, by Committee Federal and State Affairs.

SB 213, An act concerning alcoholic liquor; regarding consumption of alcoholic liquor in public; amending K.S.A. 2008 Supp. 41-719 and 41-2645 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 214, An act concerning the secretary of health and environment; relating to disposal of certain solid waste; task force, by Committee on Natural Resources.

COMMUNICATIONS FROM STATE OFFICERS**KANSAS CORPORATION COMMISSION**

January 30, 2009

Pursuant to KSA 2008 Supp. 66-2005 as amended by **SB 350** and **HB 2637**, Thomas E. Wright, Chairman, submitted a Report on Price Deregulation.

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.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2026**, **HB 2052**; **HCR 5008**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2026, **HB 2052**; **HCR 5008** were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator D. Schmidt the Senate nonconcurred in the House amendments to **SCR 1601** and requested a conference committee be appointed.

The President appointed Senators Morris, D. Schmidt and Hensley as a conference committee on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1810—

A RESOLUTION congratulating and commending the Moundridge High School debate team on becoming the 2009 3-2-1A Four Speaker Debate state champion.

WHEREAS, The Moundridge High School debate team is the 2009 Kansas State High School Activities Association class 3-2-1A four speaker debate state champion; and

WHEREAS, Members of the Moundridge High School debate team are Marike Stucky, Natalie Stucky, Katie Stevens, Kristyn Harpool, Tori Frisbee and Marcy Erb; and

WHEREAS, The team was well-coached throughout the season by head coach Mark Stucky; and

WHEREAS, On January 24, 2009, the team won the 3-2-1A state championship with thirteen wins and one loss at Washburn Rural High School in Topeka, Kansas; and

WHEREAS, Kristyn Harpool and Katie Stevens, with alternates Marcy Erb and Tori Frisbee, arguing in the affirmative, went undefeated in the tournament; and

WHEREAS, Marike Stucky and Natalie Stucky, arguing in the negative, finished the tournament with only one loss, the best negative-team record at the tournament; and

WHEREAS, The Moundridge High School debate and forensics program was established in the 1940's by Edwin Stucky, who coached the team to 16 state debate championships, including a streak of eight in a row, and is father of current coach Mark Stucky; and

WHEREAS, Since 1992, under the guidance of coach Mark Stucky, the team has won nine more state championships, including a streak of five championships in a row; and

WHEREAS, The Moundridge High School debate and forensics program has enjoyed excellent support from the community and the Moundridge community is indebted to the Moundridge High School debate program for the leaders it has produced; and

WHEREAS, Many community leaders in Moundridge were members of state championship debate teams including: Carl Krehbiel, former state representative and current owner of the Moundridge Telephone Company; Ty Kaufman, Moundridge attorney; Ruth Rithaler, former Kansas Assistant Attorney General; and David Bradbury, president of Bradbury Corporation; and

WHEREAS, The efforts of the 2009 team bring great credit upon themselves and their families, coaches and school and are deserving of being applauded for their hard work and effort required to excel in this activity: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Moundridge High School debate team for winning the 3-2-1A four speaker debate state

championship and for continuing a tradition of excellence in High School debate and that we congratulate and commend coach Stucky for the expert guidance he has given to this champion debate team; and

Be it further resolved: That the Secretary of the Senate provide seven enrolled copies of this resolution to Senator Jay Scott Emler for presentation to the team.

On emergency motion of Senator Emler **SR 1810** was adopted unanimously.

REPORT ON ENGROSSED BILLS

SB 11, SB 29 reported correctly engrossed February 4, 2009.

REPORT ON ENROLLED BILLS

SR 1808, SR 1809 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 4, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 100** be passed.

Also, **SB 97** be amended on page 1, in line 15, after “retailer” both times it appears, by inserting “, farm winery, microbrewery or distributor”; in line 21, by striking “a retailer” and inserting “any licensee”; in line 24, by striking “retailer” and inserting “licensee” and the bill be passed as amended.

Committee on **Commerce** recommends **SB 78** be passed.

Committee on **Education** recommends **SCR 1604** be adopted.

Also, **SB 73** be amended on page 1, by striking all in lines 14 through 21; following line 21, by inserting the following:

“New Section 1. (a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is \$4,433 or less.

(2) The board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was \$4,433 or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(b) (1) The provisions of this subsection shall apply in any school year in which the amount appropriated for state aid for special education and related services is less than the amount appropriated for state aid for special education and related services in school year 2008-2009.

(2) The board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(c) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

(d) To the extent that the provisions of K.S.A. 72-6433, and amendments thereto, conflict with this section, this section shall control.”; and the bill be passed as amended.

SB 131 be amended on page 1, in line 15, by striking “72-4476,”; and the bill be passed as amended.

Committee on **Ethics and Elections** recommends **SB 38** be amended on page 1, after line 18, by inserting:

“The board of county commissioners, on its own motion, may submit the proposition to the qualified electors of Mound City township and Paris township without the submission of the petition.”; and the bill be passed as amended.

Also, **SB 80** be amended on page 1, in line 19, by striking “votes cast at” and inserting “qualified electors who vote in”; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 86** be passed.

Also, **SB 85** be amended on page 2, in line 17, by striking “certified”;

On page 4, in line 30, by striking “cer-”; in line 31, by striking “tified”; in line 32, by striking “certified”;

On page 5, in line 20, by striking “certified”;

On page 6, in line 25, by striking “certified”; and the bill be passed as amended.

SB 132 be amended on page 2, after line 5, by inserting the following:

“(1) “Entity” means:

- (1) A corporation;
- (2) a general partnership, including a limited liability partnership;
- (3) a limited partnership, including a limited liability limited partnership;
- (4) a limited liability company;
- (5) a business trust or statutory trust entity;
- (6) a cooperative; or
- (7) any other person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:
 - (A) An individual;
 - (B) a testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust entity or similar trust;
 - (C) an association or relationship that is not a partnership solely by reason of subsection (c) of K.S.A. 56a-202, and amendments thereto, or a similar provision of the law of any other jurisdiction;
 - (D) a decedent’s estate; or
 - (E) a government, a governmental subdivision, agency, or instrumentality or a quasi-governmental instrumentality.”;

And by relettering the remaining subsections accordingly;

On page 36, in line 11, after “17-7685,” by inserting “17-7701, 17-7702, 17-7703, 17-7704, 17-7705, 17-7706, 17-7707, 17-7708, 17-7709,”;

In the title, in line 12, after “17-7685,” by inserting “17-7701, 17-7702, 17-7703, 17-7704, 17-7705, 17-7706, 17-7707, 17-7708, 17-7709,”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 25** be amended on page 1, following line 33, by inserting:

“(a) “Access point” means the area within a ten foot radius outside of any doorway, operable window or air intake leading into a building or facility that is not exempted pursuant to subsection (d) of K.S.A. 21-4010, and amendments thereto.”;

And by relettering remaining subsections accordingly;

On page 2, by striking all in lines 14 through 21;

On page 3, in line 27, by striking “80%” and inserting “65%”;

On page 5, in line 29, by striking “or” and inserting “and”;

On page 6, following line 42, by inserting:

“New Sec. 7. The amendments made to K.S.A. 21-4009 through 21-4012, and amendments thereto, and K.S.A. 21-4013 and 21-4014, and amendments thereto, shall constitute the Kansas indoor clean air act.”

And by renumbering sections accordingly;

On page 7, in line 2, after “after”, by inserting “January 2, 2010, and”;

In the title, in line 9, after “ACT”, by inserting “creating the Kansas indoor clean air act.”; and the bill be passed as amended.

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 Lynn in the Chair.

On motion of Senator Lynn the following report was adopted:

Recommended **SB 82** be passed.

SB 102 be amended by adoption of the committee amendments, and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, February 5, 2009.

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

PAT SAVILLE, *Secretary of the Senate.*

