

Journal of the Senate

EIGHTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 5, 2009—2:30 p.m.

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

Heavenly Father,
Today, I'm attempting to put myself in the place of a Senator.
I told my constituents, Lord,
I would try to make a difference;
I said I would do my best
And serve them with all diligence.
But sometimes they forget, O God,
I've only one of forty votes.
So even if I vote their way,
The bill just may not float.
Even if it passes,
The House must also pass it;
Which is another obstacle
Considering this facet.
Besides, the Governor has the right
To veto any bill
Which makes it more possible
That it will be killed.
If the veto is overridden
It can still experience defeat,
Being declared unconstitutional
By the Court across the street.
However, I believe You helped me, Lord,
To get here in the Senate,
So I trust that You will help me
To make a difference in it!
I ask this in the Name of Jesus Christ,
AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 215, An act concerning certain boards, commissions and officers; relating to the appointment thereof; amending K.S.A. 2008 Supp. 75-712 and 75-4315d and repealing the existing sections, by Committee on Federal and State Affairs.

SB 216, An act concerning the Kansas cigarette and tobacco products act; sale of cigarettes and tobacco products in violation of act; amending K.S.A. 50-6,104, 79-3304, 79-3309, 79-3312a, 79-3323, 79-3324a, 79-3326, 79-3329, 79-3371, 79-3374, 79-3377 and 79-3379 and K.S.A. 2008 Supp. 79-3301, 79-3302, 79-3303, 79-3310, 79-3311, 79-3312, 79-3313, 79-3316, 79-3321, 79-3322, 79-3333, 79-3334, 79-3335, 79-3391, 79-3393, 79-3395, 79-3396, 79-3397 and 79-3398 and repealing the existing sections; also repealing K.S.A. 79-3306, 79-3373, 79-3375 and 79-3378 and K.S.A. 2008 Supp. 79-3310c, by Committee on Judiciary.

SB 217, An act concerning electricity; relating to retail electric service and station power; concerning state educational institutions authority to enter into certain agreements concerning energy generation; amending K.S.A. 66-1,170, 66-1,171, 66-1,172 and 66-1,175 and repealing the existing sections, by Committee on Utilities.

SB 218, An act concerning alcoholic beverages; relating to farm wineries; authorizing certain permits and licenses, and activities by wine outlets; amending K.S.A. 41-305 and K.S.A. 2008 Supp. 41-308a and repealing the existing sections, by Committee on Agriculture.

SB 219, An act concerning retirement and pensions; relating to the Kansas public employees retirement system; death and disability benefits; employer contributions; amending K.S.A. 2008 Supp. 74-4927 and repealing the existing section, by Committee on Ways and Means.

SB 220, An act concerning emergency medical services; amending K.S.A. 65-6110, 65-6125, 65-6126, 65-6127, 65-6128, 65-6129a, 65-6129b, 65-6129c, 65-6130, 65-6132, 65-6133, 65-6135, 65-6145 and 65-6150 and K.S.A. 2008 Supp. 44-131, 65-6111, 65-6112, 65-6124 and 65-6129 and repealing the existing sections, by Committee on Ways and Means.

SB 221, An act concerning emergency medical services; duties of emergency medical services board; amending K.S.A. 2008 Supp. 65-6111 and repealing the existing section, by Committee on Ways and Means.

SB 222, An act concerning emergency medical services; criminal history record checks, by Committee on Ways and Means.

SB 223, An act concerning the emergency medical services board; subpoena authority; amending K.S.A. 65-6130 and K.S.A. 2008 Supp. 65-6111 and repealing the existing sections, by Committee on Ways and Means.

SB 224, An act concerning the emergency medical services board; authorizing the assessment of civil penalties, by Committee on Ways and Means.

SB 225, An act concerning the low-income family postsecondary savings accounts incentive program; amending K.S.A. 2008 Supp. 75-650 and repealing the existing section, by Committee on Ways and Means.

SB 226, An act concerning government transparency; regarding state funds; legislative votes; amending K.S.A. 2008 Supp. 74-72,123 and repealing the existing section, by Committee on Ways and Means.

SB 227, An act concerning tourism; creating the Kansas tourism corporation and providing for the powers and duties thereof; transferring the powers and duties of the division of travel and tourism development to the Kansas tourism corporation; providing for tourism development and funding; amending K.S.A. 73-2103 and K.S.A. 2008 Supp. 73-2402, 73-2404, 74-5005 and 79-3620 and repealing the existing sections; also repealing K.S.A. 74-5032, 74-5032a and 74-5090 and K.S.A. 2008 Supp. 74-5089, 74-5091, 74-9001, 74-9002, 74-9003, 74-9004 and 74-9005, by Committee on Ways and Means.

SB 228, An act concerning property tax; relating to exemptions; pertaining to motor vehicles leased for a period of at least one year and used for certain exempt purposes; amending K.S.A. 2008 Supp. 79-201 and 79-201a and repealing the existing sections, by Committee on Assessment and Taxation.

SB 229, An act concerning employment; relating to misclassification of employees; amending K.S.A. 2008 Supp. 79-3234 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture: **SB 185, SB 203.**

Assessment and Taxation: **SB 177, SB 192, SB 197; HB 2026; SCR 1607.**

Education: **SB 176, SB 194, SB 209.**

Ethics and Elections: **SB 186, SB 190, SB 191, SB 193, SB 210.**

Federal and State Affairs: **SB 178, SB 179, SB 201, SB 202, SB 212, SB 213; SCR 1608.**

Financial Institutions & Insurance: **SB 181, SB 195, SB 206; HB 2052.**

Judiciary: **SB 188, SB 208, SB 211.**

Local Government: **SB 198; HCR 5008.**

Natural Resources: **SB 182, SB 183, SB 184, SB 189, SB 214.**

Public Health and Welfare: **SB 180, SB 200.**

Ways and Means: **SB 187, SB 196, SB 199, SB 204, SB 205, SB 207.**

COMMUNICATIONS FROM STATE OFFICERS

KANSAS BOARD OF PHARMACY

February 3, 2009

Debra Billingsley, Executive Secretary, Kansas Board of Pharmacy, pursuant to KSA 65-4102(b), submitted a report concerning the classification of the substance N-Benzylpiperazine (BZP) as a schedule I controlled substance for purposes of the Kansas Controlled Substance Act.

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.

MESSAGE FROM THE HOUSE

Announcing adoption of **HCR 5007.**

Announcing adoption of **SCR 1606.**

Announcing passage of **H Sub for Sub for SB 23**, as amended.

The House accedes to the request of the Senate for a conference on **SCR 1601** and has appointed Representatives Shultz, Kinzer and Sawyer as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5007, a concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Supreme Court, was thereupon introduced and read by title.

On emergency motion of Senator D. Schmidt, **HCR 5007** was adopted by voice vote.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Emler the Senate nonconcurring in the House amendments to **H Sub for Sub SB 23** and requested a conference committee be appointed.

The Vice President appointed Senators Emler, Vratil and Kelly as a conference committee on the part of the Senate.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 82, An act repealing K.S.A. 2008 Supp. 65-1,214; relating to residential childhood lead poisoning prevention; concerning sunset provision, was considered on final action.

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 bill passed.

SB 102, An act concerning emergency medical services; relating to use of automated external defibrillator; amending K.S.A. 2008 Supp. 65-6149a and repealing the existing section, was considered on final action.

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 bill passed, as amended.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1811—

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

WHEREAS, Friday, February 6, has been designated "National Wear Red Day for Women" by the American Heart Association, and this event is part of the Go Red for Women campaign, the American Heart Association's national call to increase awareness about heart disease, the leading cause of death for women, and that this movement celebrates the energy, passion and power women have to take charge of their heart health in order to live stronger, longer lives; and

WHEREAS, The color red and the red dress symbol have become linked with the ability all women have to improve their heart health, and the American Heart Association is encouraging everyone to wear red on February 6 in support of all women who have experienced heart disease or stroke; and

WHEREAS, Diseases of the heart are the nation's leading cause of death and stroke is the third leading cause of death. In 2007, heart disease killed 5,727 Kansans, and more women die of cardiovascular disease than the next five leading causes of death combined, including all cancers; and

WHEREAS, Increasing women's awareness of heart disease through this program is important because only 21% of women consider cardiovascular disease their greatest health risk. This lack of urgency about women's heart health contributes to the death of over 460,000 American females each year, with over 11 females a day dying from heart disease and stroke in Kansas; and

WHEREAS, Many of the risk factors that can lead to heart disease, such as high blood pressure, high blood cholesterol and diabetes, can be controlled or prevented. Research has shown that men and women who lead healthy lifestyles, including making healthy food choices, getting regular exercise, maintaining a healthy weight and choosing not to smoke, can significantly decrease their risk of heart disease; and

WHEREAS, February is designated as American Heart Month, and women who contact the American Heart Association will be provided with information to learn their own personal risk for heart disease, using tools such as the American Heart Association's Go Red for Women Heart Checkup and by talking to their healthcare provider and obtaining 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 health 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 Linda J. De Coursey, American Heart Association, 5375 SW 7th Street, Topeka, KS, 66606.

On emergency motion of Senator V. Schmidt **SR 1811** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Public Health and Welfare** recommends **SB 16**, **SB 31** be passed.

Also, **SB 33** be amended on page 2, in line 12, by striking "\$50" and inserting "\$100"; 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 Teichman in the Chair.

On motion of Senator Teichman the following report was adopted:

Recommended **SB 78, SB 86** be passed.

SB 38, SB 80, SB 85, SB 132 be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee report on **SB6**, recommending a **Sub SB 6** be adopted, and the substitute bill be passed.

SCR 1604 be adopted.

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 **Sub SB 6; SB 38, SB 78, SB 80, SB 85, SB 86, SB 132; SCR 1604**.

Sub SB 6, An act amending the charitable organizations and solicitations act; concerning professional fund raisers; amending K.S.A. 17-1766 and repealing the existing section.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Abrams, Huelskamp, Pyle.

The substitute bill passed.

SB 38, An act concerning hospital districts; relating to the formation of a hospital district in Linn county.

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 bill passed, as amended.

SB 78, An act concerning transportation development districts; amending K.S.A. 2008 Supp. 12-17,140, 12-17,141, 12-17,143, 12-17,145 and 12-17,148 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 bill passed.

SB 80, An act concerning cities; dealing with certain elections; amending K.S.A. 15-809 and repealing the existing section.

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 bill passed, as amended.

SB 85, An act concerning the secretary of state; relating to return of filings to corporations and limited partnerships; amending K.S.A. 17-6003, 17-7301, 17-7678 and 56-1a156 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 bill passed, as amended.

SB 86, An act concerning the secretary of state; relating to letters of good standing; amending K.S.A. 17-7506 and repealing the existing section.

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 bill passed.

SB 132, An act enacting the business entity transaction act; amending K.S.A. 17-7675, 17-7681, 56a-401, 56a-502, 56a-905, 56a-906, 56a-907 and 56a-908 and repealing the existing sections; also repealing K.S.A. 17-7684, 17-7685, 17-7701, 17-7702, 17-7703, 17-7704, 17-7705, 17-7706, 17-7707, 17-7708, 17-7709, 56a-901, 56a-902, 56a-903 and 56a-904.

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 bill passed, as amended.

SCR 1604, A CONCURRENT RESOLUTION encouraging the Kansas State Historical Society to develop a plan to commemorate the sesquicentennial of the admission of Kansas to the Union.

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.

MESSAGE FROM THE HOUSE

The House accedes to the request of the Senate for a conference on **H Sub for Sub for SB 23** and has appointed Representatives Yoder, Watkins and Feuerborn as conferees on the part of the House.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, February 6, 2009.

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

