

Journal of the Senate

TWENTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 10, 2009—11:00 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Quite frequently we hear a Senator say, "I move that an emergency be declared, the rules suspended" and some resolution be passed.

I would like to be able to move that an emergency be declared, the rules suspended and each of the ten commandments be obeyed.

I move that an emergency be declared, the rules suspended, and that no one shall have any other gods before You.

I move that an emergency be declared, the rules suspended, and that no one shall worship any hand made image.

I move that an emergency be declared, the rules suspended, and that no one will misuse the name of God.

I move that an emergency be declared, the rules suspended, and that everyone will keep the Sabbath Day holy.

I move that an emergency be declared, the rules suspended, and that everyone will honor their parents.

I move that an emergency be declared, the rules suspended, and that no one shall commit murder.

I move that an emergency be declared, the rules suspended, and that no one will commit adultery.

I move that an emergency be declared, the rules suspended, and that no one shall steal.

I move that an emergency be declared, the rules suspended, and that no one gives false testimony against their neighbor.

I move that an emergency be declared, the rules suspended, and that no one covets anything belonging to their neighbors.

Most of all, I move an emergency be declared, the rules suspended, and that everyone obey the two greatest commandments: You shall love the Lord your God with all your heart, with all your mind, with all your strength, and with all your soul, and love your neighbor as yourself.

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 255**.

Commerce: **SB 250, SB 251**.

Federal and State Affairs: **SB 246, SB 247.**
 Local Government: **SB 245, SB 253, SB 254.**
 Public Health and Welfare: **SB 248, SB 249.**
 Ways and Means: **SB 252.**

CHANGE OF REFERENCE

The President withdrew **SB 230** from the Committee on **Ways and Means**, and referred the bill to the Committee on **Financial Institutions and Insurance**.

The President withdrew **SB 222, SB 224** from the Committee on **Judiciary**, and referred the bills to the Committee on **Federal and State Affairs**.

On motion of Senator D. Schmidt, the Senate recessed to go to the House of Representatives to wait for the House members to escort Senators into the Chamber for the message from the Supreme Court. The Senate will reconvene at 2:30 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Morris in the chair.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 256, An act concerning pesticides; creating the pesticide safety and education fee fund, by Committee on Federal and State Affairs.

SB 257, An act concerning cities; relating to public improvements outside the city limits; amending K.S.A. 12-693 and repealing the existing section, by Committee on Federal and State Affairs.

SB 258, An act concerning workers compensation; relating to caps on benefits, by Committee on Ways and Means.

CHANGE OF REFERENCE

The President withdrew **SB 223** from the Committee on **Judiciary**, and referred the bill to the Committee on **Federal and State Affairs**.

FINAL ACTION ON CONSENT CALENDAR

SB 1 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

SB 1, William Inge Theatre Festival designated as the official theatre festival of the state of Kansas.

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.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 16, An act concerning the pharmacy act of the state of Kansas; declaring certain acts not to be in violation of said act; amending K.S.A. 65-1636 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.

SB 31, An act concerning behavioral sciences; relating to continuing education requirements; amending K.S.A. 2008 Supp. 65-6313 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Abrams, Bruce, Ostmeyer, Owens, Pyle, Reitz, Steineger, Wagle.

The bill passed.

SB 33, An act concerning the licensure of certain health care professionals; relating to fingerprinting and criminal history record checks; amending K.S.A. 74-1603 and 74-1604 and K.S.A. 2008 Supp. 65-1663 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: 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, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Pilcher-Cook, Pyle, Steineger, Wagle.

The bill passed, as amended.

SB 97, An act concerning the liquor enforcement tax; relating to violations by retailers; prescribing penalties therefor, 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.

SB 131, An act concerning technical colleges; relating to the powers and duties of the governing bodies thereof, 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.

REPORT ON ENGROSSED BILLS

SB 33, SB 97, SB 131 reported correctly engrossed February 10, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** recommends **SB 126** be passed.

Also, **SB 137** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Public Health and Welfare** recommends **SB 62** be amended on page 2, in line 31, by striking the comma, where it appears for the third time, and inserting "or";

On page 3, in line 2, by striking “statute book” and inserting “Kansas register”; 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 McGinn in the Chair.

On emergency motion of Senator D. Schmidt, **SB 91** was moved to the top of the calendar under the heading of General Orders.

On motion of Senator McGinn the following report was adopted:

Recommended **SB 61, SB 66, SB 70** be passed.

SB 26, SB 73, SB 91 be amended by adoption of the committee amendments, and the bills be passed as amended.

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 **SB 26, SB 61, SB 66, SB 70, SB 73, SB 91** were advanced to Final Action and roll call.

SB 26, An act concerning crimes, punishment and criminal procedure; relating to drug offenses; possession of a firearm; sentencing; amending K.S.A. 2008 Supp. 21-4705 and repealing the existing section.

On roll call, the vote was: Yeas 33, Nays 6, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Huelskamp, Kelsey, Kultala, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeier, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Brownlee, Faust-Goudeau, Haley, Kelly, Lee, Steineger.

Absent or Not Voting: Reitz.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I VOTE NO ON **SB 26**. During these fiscally austere times, we as a Legislature should practice fiscal restraint and avoid writing “blank checks” which increase our “bed space” count until we know how these expenses affect our overall budget stability.— DAVID HALEY

Senator Kelly requested the record to show she concurs with the “Explanation of Vote” offered by Senator Haley on **SB 26**.

SB 61, An act concerning the department of corrections; relating to the prison-made goods act; providing additional authorization to contract for certain work projects; amending K.S.A. 2008 Supp. 75-5275 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

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, Ostmeier, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

SB 66, An act concerning district courts; relating to change of venue in care and treatment cases for mentally ill persons and care and treatment cases for persons with an alcohol or substance abuse problem; transmittal of documents; amending K.S.A. 59-2971 and 59-29b71 and repealing the existing sections.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

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, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

SB 70, An act concerning trusts; relating to the uniform principal and income act.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

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, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Reitz.

The bill passed.

SB 73, An act concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 72-6433 and repealing the existing section; also repealing K.S.A. 2008 Supp. 72-6433c.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, 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, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp.

Absent or Not Voting: Reitz.

The bill passed, as amended.

SB 91, An act concerning planning and zoning; dealing with vesting of development rights; amending K.S.A. 12-764 and repealing the existing section.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, 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, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Brownlee, Pyle.

Absent or Not Voting: Reitz.

The bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 4:00 p.m., Wednesday, February 11, 2009.

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

PAT SAVILLE, *Secretary of the Senate.*

