

# Journal of the Senate

FORTIETH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, March 10, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil.  
The roll was called with thirty-six senators present.  
Senators Hensley, Masterson, Morris and Steineger were excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Two of Your most faithful servants in the history of our nation were named  
Webster:

Daniel, for what he spoke.

Noah, for what he wrote.

Daniel served as Secretary of State for three presidents: Harrison, Tyler, and  
Fillmore. He is considered one of the greatest orators in American history.

I marvel at his prediction of the future of our country. He stated this  
sometime in the first half of the 19th century: "If we abide by the principles  
taught in the Bible, our country will go on prospering and to prosper; but if  
we and our posterity neglect its instructions and authority, no man can tell  
how sudden a catastrophe may overwhelm us and bury all our glory in  
profound obscurity."

Noah was the author of Webster's Dictionary. In 1832 he published his  
*History of the United States of America* in which he wrote: "The moral  
principles and precepts contained in the Scriptures ought to form the basis of  
all of our civil constitutions and laws. . . All the miseries and evils which men  
suffer from vice, crime, ambition, injustice, oppression, slavery and war,  
proceed from their despising or neglecting the precepts contained in the  
Bible."

Thank you, Lord, for raising up these two men in the 19th century who  
understood that obedience to the precepts of the Bible is necessary for a  
nation to maintain its greatness.

I pray 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 bill was introduced and read by title:

**SB 310**, An act concerning sexually violent predators; relating to placement into the  
community; amending K.S.A. 2008 Supp. 59-29a11 and repealing the existing section, by  
Committee on Ways and Means.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to Committees as indicated:

Federal and State Affairs: **SB 307**.

Public Health and Welfare: **SB 305**.

Ways and Means: **SB 304, SB 306, SB 308, SB 309**.

**COMMUNICATIONS FROM STATE OFFICERS**

SENATE PRESIDENT

May 23, 2008

In accordance with KSA 2007 Supp. 75-7401, Stephen R. Morris, Senate President, re-appointed Joe Tilghman to the Kansas Health Policy Authority.

SPEAKER

HOUSE OF REPRESENTATIVES

July 29, 2008

In accordance with KSA 2007 Supp. 75-7401, Melvin Neufeld, Speaker, Kansas House of Representatives, re-appointed Garen Cox to the Kansas Health Policy Authority for a term of four years which shall expire March 15, 2012.

The Vice President announced the above appointments are on file in the office of the Secretary of the Senate and are available for review at any time.

**MESSAGE FROM THE HOUSE**

The House accedes to the request of the Senate for a conference on **SB 102** and has appointed Representatives Landwehr, Crum and Flaharty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 238** and has appointed Representatives Neufeld, Kiegerl and Loganbill as conferees on the part of the House.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

SENATE RESOLUTION No. 1847—

A RESOLUTION recognizing the Kansas Small Business Development Center's 2008 Emerging and Existing Businesses of the Year.

WHEREAS, The Kansas Small Business Development Center's Business of the Year awards are designed to recognize KSBDC clients for superior performance; and

WHEREAS, The KSBDC regional directors and staff select eight Emerging Business of the Year award recipients and eight Existing Business of the Year award recipients; and

WHEREAS, Emerging Business of the Year award recipients have demonstrated major accomplishments while establishing and growing the business, overcome significant obstacles, shown growth and impact based on the KSBDC Economic Impact Tracking spreadsheet, a clear vision for the future of the business and something unique to offer to their community; and

WHEREAS, Existing Business of the Year award recipients have achieved major accomplishments, overcome significant obstacles, shown growth and impact based on the KSBDC Economic Impact Tracking spreadsheet, a record of profitability and demonstrated good corporate citizenship through community contributions; and

WHEREAS, The 2008 KSBDC Emerging Businesses of the Year are Eagle Creek Vineyards, a vineyard in Olpe, Kansas, owned by Jo Ann Kuhlmann; Flower Cottage, a retail florist and gift shop in Quinter, Kansas, owned by Kathy and Robert Kuntz; Local Burger, a local food restaurant in Lawrence, Kansas, owned by Hilary Brown; Longford Water Company, LLC, a bottled water company in Longford, Kansas, owned by Kim and Wava Kramer; Music House School of Music, a music education business in Overland Park, Kansas, owned by Aaron Sizemore and Katrinka Riggs; New Boston Creative Group, LLC, a

marketing and communications company in Manhattan, Kansas, owned by Kristin Brighton, Susan Religa and Lisa Sisley; Oakview Estates Assisted Living, an assisted living facility in Frontenac, Kansas, owned by Mark Scales and Jason Lahr; and Oswalt Appraisals, a real estate appraisal company in Garden City, Kansas, owned by Alan Oswalt; and

WHEREAS, The 2008 KSBDC Existing Businesses of the Year are Acorn Valley Custom Cabinetry, a cabinetry business in Thayer, Kansas, owned by Jim Houston and Bob Greif; Avon Beauty Center, a retail cosmetics business in Overland Park, Kansas, owned by Elizabeth and George Demas; EmbroidMe, an embroidery business in Dodge City, Kansas, owned by Gavin and Kim Unruh; The Furniture Look, Inc., a retail furniture store in Hays, Kansas, owned by Karen Dreiling; Howard Pine's Garden Center & Greenhouses, a retail garden center in Lawrence, Kansas, owned by Gerald Pine; Morrill Collision Repair, Inc., a collision repair and service center in Morrill, Kansas, owned by Lonnie and Melanie Teeter; Pet Sitting Pal, a pet sitting business in Emporia, Kansas, owned by Renee Flott; and ServiceMaster Clean In a Wink, a residential and commercial cleaning service company in Wichita, Kansas, owned by Jerry E. Winkley; and

WHEREAS, The KSBDC Businesses of the Year serve as examples of the creativity and diversity that the many small businesses in Kansas provide to their communities: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we recognize the Kansas Small Business Development Center's 2008 Emerging and Existing Businesses of the Year and wish all of them continued success in the future; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide 17 enrolled copies of this resolution to Senator Karin Brownlee.

On emergency motion of Senator Brownlee **SR 1847** was adopted unanimously.

Senator Brownlee recognized small business owners who were guests.

#### POINT OF PERSONAL PRIVILEGE

Senator Osymeyer rose on a point of personal privilege to introduce the senior class of Northern Valley High School and their teacher, Jason Dibble.

#### REPORTS OF STANDING COMMITTEES

**Committee on Agriculture** recommends **HB 2121**, as amended by House Committee of the Whole, be amended on page 26, in line 8, by striking "such fee shall not exceed"; in line 10, by striking "\$25" and inserting "on an after July 1, 2015, such fee shall not exceed \$10";

On page 34, after line 26, by inserting the following:

"Sec. 32. K.S.A. 2008 Supp. 65-778 is hereby amended to read as follows: 65-778. (a) Any person who engages in business as a dairy manufacturing plant shall first apply for and obtain a dairy manufacturing plant license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a license fee of \$155.

(b) Any person who engages in business as a distributor of milk, milk products or dairy products shall first apply for and obtain a milk distributor license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a license fee of \$155. No milk distributor license shall be required for a licensed dairy manufacturing plant which distributes only those products which it manufactures.

(c) Any person who engages in business as a milk hauler shall first apply for and obtain a milk hauler license from the secretary and shall pay a license fee of \$25 or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a license fee of \$35. As part of the application, the secretary may require the applicant to be tested regarding proper procedures for sampling, testing and weighing milk or cream and state laws and rules and regulations.

(d) Any person who operates a milk or cream transfer station or milk or cream receiving station shall first apply for and obtain a milk or cream station license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a license fee of \$65.

(e) Any person who engages in business as a manufacturer of single service dairy containers or manufacturer of single service dairy container closures shall first apply for and

obtain a single service manufacturing license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a license fee of \$65.

(f) The dairy manufacturing plant license, milk distributor license, milk or cream station license and single service manufacturing license shall expire on December 31 of the year for which it was issued unless suspended or revoked by the secretary pursuant to this act. The milk hauler license shall expire on June 30 following the date of issuance unless suspended or revoked by the secretary pursuant to this act.

(g) No license issued under this section shall be transferable. No license shall be renewed if any assessments or fees required under this act are delinquent.

(h) Each applicant for a license shall submit an application on a form supplied by the secretary accompanied by the license fee. All licenses shall be conspicuously displayed in the applicant's place of business.

Sec. 33. K.S.A. 2008 Supp. 65-781 is hereby amended to read as follows: 65-781. The following fees for the statewide system of milk inspection and regulatory services are hereby established:

(a) A fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a fee of \$.015 for each 100 pounds of milk produced by milk producers under Kansas grade A inspection shall be paid. Each producer is hereby charged with such fee which shall be paid to the milk producers' cooperative, milk processor or milk distributor to whom the milk is sold or delivered. Each cooperative, processor or distributor is hereby charged with the duty of collecting such fees which shall be remitted to the secretary.

(b) A fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a fee of \$.015 for each 100 pounds of packaged grade A pasteurized milk or milk products sold in Kansas at retail to the final consumer shall be paid. Each distributor is hereby charged with such fee which shall be remitted to the secretary.

(c) A fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a fee of \$.015 per 100 pounds or fraction thereof of grade A raw milk for pasteurization delivered to a milk processor within the state of Kansas which is processed into grade A milk or grade A milk products shall be paid. Each milk processor is hereby charged with such fee which shall be remitted to the secretary.

(d) A milk fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a fee of \$.015 per 100 pounds of milk or cream for manufacturing purposes produced by milk producers under Kansas manufacturing grade milk inspection shall be paid. Each producer is hereby charged with such fee which shall be paid to the milk producers' cooperative, dairy manufacturing plant or any other person to whom the milk or cream for manufacturing purposes is sold or delivered. Each cooperative, dairy manufacturing plant or other person is hereby charged with the duty of collecting such fees which shall be remitted to the secretary.

(e) A fee of \$.0075, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a fee of \$.01 per 100 pounds of Kansas produced milk or cream for manufacturing purposes or other Kansas produced milk delivered to a dairy manufacturing plant shall be paid on all Kansas milk used in the manufacturing of dairy products. As used in this subsection, the term dairy products shall not include any frozen dairy dessert or frozen dairy dessert mix. Each dairy manufacturing plant shall pay such fee which shall be remitted to the secretary.

(f) In lieu of the fee prescribed in subsection (e), a fee of \$1, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a fee of \$1.50 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix shall be paid by the manufacturer thereof. Each manufacturer of frozen dairy dessert or frozen dairy dessert mix is hereby charged with such fee which shall be remitted to the secretary. Frozen dairy dessert mix which is further processed into the corresponding frozen dairy dessert by the manufacturer of the frozen dairy dessert mix shall not be subject to the fee required by this subsection.

(g) A fee of \$1, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2015, a fee of \$1.50 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix imported for retail sale in Kansas shall be paid by the milk distributor who imports these products.

(h) If any fee computed pursuant to subsection (a) through (e) is less than \$2.50, then the sum of \$2.50 shall be paid in lieu of the computed fee. If any fee computed pursuant

to subsection (f) or (g) is less than \$7.50, a minimum fee of \$7.50 shall be paid in lieu of the computed fee.

(i) All fees established herein shall be paid to the secretary in the following manner:

(1) The fees established in subsections (a) through (e) shall be remitted on or before the 30th day of each month for the calendar month immediately preceding and shall be accompanied by a report, in the form prescribed by the secretary, indicating the quantities upon which the remittance is based.

(2) The fees established in subsections (f) and (g) shall be remitted on April 30, July 31, October 31 and January 31 for the three calendar months immediately preceding and shall be accompanied by a report, in the form prescribed by the secretary, indicating the quantity of frozen dairy dessert or frozen dairy dessert mix upon which the remittance is based.

(j) Any person who fails to remit all or any part of the required fee or to submit the required report by the date due may be assessed an additional charge equal to 1% of the amount of delinquent fees for each day after the date due, or \$5, whichever amount is greater.”;

And by renumbering the remaining sections accordingly;

Also on page 34, in line 31, by striking “and 2-3309” and inserting “, 2-3309, 65-778 and 65-781”;

In the title, in line 13, by striking “of the department of agriculture”; also in line 13, by striking “concerning” and inserting “fees;”; also in line 13, by striking “such pro-”; in line 14, by striking “grams, definitions” and inserting “milk and dairy products”; in line 18, by striking “and 2-3309” and inserting “, 2-3309, 65-778 and 65-781”; and the bill be passed as amended.

Committee on **Education** recommends **SB 290; HB 2003, HB 2197** be passed.

Committee on **Federal and State Affairs** recommends **SB 54** be passed.

Also, **SB 224** be amended on page 1, in line 13, by striking “addition to” and inserting “lieu of”; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 241** be amended on page 3, in line 13, preceding the period by inserting “, in accordance with standards established by the American institute of certified public accountants”;

On page 11, in line 32, by striking “or”, where it appears for the second time; in line 35, by striking the period and inserting “; or

(C) services performed by an individual licensed as a real estate broker or salesperson pursuant to K.S.A. 58-3034 et seq., and amendments thereto, while providing any real estate brokerage services as defined under subsection (f) of K.S.A. 58-3035, and amendments thereto.”;

On page 15, preceding line 35, by inserting the following:

“(v) Request that a consumer transfer any portion of such consumer’s ownership interest in a distressed property to a trust.

(w) Take any form of ownership interest in a distressed property pursuant to a distressed property consulting agreement or request or require that any form of ownership interest be transferred to a related interest of the registrant.

(x) Make any inference to a consumer that entering into a distressed property consulting services agreement will result in the consumer being allowed to remain in such consumer’s home.

(y) Make any inference to a consumer that entering into a distressed property consulting agreement will result in an improved credit rating.

(z) Receive any compensation prior to the completion of all activities described in a distressed property consulting agreement.”;

And the bill be passed as amended.

Committee on **Local Government** recommends **HB 2157** be passed.

Committee on **Transportation** recommends **HB 2188**, as amended by House Committee, be passed.

Committee on **Ways and Means** recommends **HB 2265** be amended on page 1, in line 22 by striking “three” and inserting “two”; 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 motion of Senator McGinn the following report was adopted:

Recommended: **SB 223; HB 2023, HB 2068, HB 2091, HB 2142; Sub HB 2339** be passed

**SB 212** be amended by motion of Senator Brungardt on page 3, before line 1, by inserting the following:

“Sec. 2. K.S.A. 2008 Supp. 41-348 and 41-349 are hereby repealed.”; And by renumbering the remaining section accordingly;

On page 1, in the title, in line 9, after “wines” by inserting “; repealing K.S.A. 2008 Supp. 41-348 and 41-349”

**SB 212** be further amended by Senator Brungardt on page 5, after line 11 by inserting the following:

“(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment’s licensed premises be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.

(3) All licensees selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be jointly and severally liable for violations of all laws governing the sale and consumption of alcoholic liquor.”; and by renumbering the remaining paragraph accordingly, and **SB 212** be passed as amended.

**SB 262** be amended by motion Senator Brungardt on page 7, in line 18, by striking “state general fund” and inserting “emergency medical services operating fund established by K.S.A. 65-6151, and amendments thereto”, and **SB 262** be passed as amended.

**SB 213** be amended by adoption of the committee amendments, be further amended by motion of Senator Schodorf on page 5, after line 11 by inserting the following:

“(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment’s licensed premises be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.

(3) All licensees selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be jointly and severally liable for violations of all laws governing the sale and consumption of alcoholic liquor.”; and by renumbering the remaining paragraph accordingly, and **SB 213** be passed as further amended.

Senator Schodorf withdrew a prior amendment on **SB 213**.

**HB 2007** be passed over and retain a place on the calendar.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, March 11, 2009.

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

PAT SAVILLE, *Secretary of the Senate*.

