

Journal of the Senate

FIFTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, April 30, 2009—10:00 a.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with forty senators present.
Vice President Vratil introduced as guest chaplain, Rev. Ben Saucedo, Associate Pastor, Temple Baptist Church, Wichita, Kansas, who delivered the invocation:

Dear Heavenly Father,

Thank you for all your goodness and blessings to us. We, indeed as a country and state, have been blessed greatly by You! Today we thank you for that. We also come in need of your help. With many challenges and choices that face this governing body, I ask God that you would guide them, direct them, and give them wisdom to make choices that would be pleasing to You. Your Word tells us that we must be dependent upon You, and Lord, we come asking for the strength to depend upon you. We love you, and thank you for your goodness, and ask that You will bless all that's done in this chamber today, in Your Son's Holy Name.

Amen

The Pledge of Allegiance was led by Vice President Vratil.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:
Assessment and Taxation: **SB 334**, **SB 335**, **SB 337**, **SB 338**.
Committee of the Whole: **SB 336**.
Natural Resources: **SB 332**.
Ways and Means: **SB 333**.

REFERRAL OF APPOINTMENTS

The following appointment made by the Speaker of the House of Representatives and submitted to the senate for confirmation, was referred to Committee as indicated:

Kansas Health Policy Authority, Kenneth L. Daniel, Jr., term expires March 15, 2012.
(Public Health and Welfare)

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Holland and D. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1878—

A RESOLUTION in memory of Senator James B. Pearson.

WHEREAS, Former Kansas and United States Senator James B. Pearson passed away on January 13, 2009 in his home in Gloucester, Massachusetts; and

WHEREAS, Senator Pearson served the people of Kansas as state senator from 1956 to 1960, chairman of the Kansas GOP in 1960, and United States Senator from 1962 to 1978,

during which time he served notably on the commerce committee and the foreign relations committee; and

WHEREAS, Among Senator Pearson's greatest accomplishments were his successful efforts to deregulate the natural gas industry, champion the rights of farmers and ranchers, and improve the agriculture and aviation industries in Kansas; and

WHEREAS, Senator Pearson was born in Nashville, Tennessee on May 7, 1920. In 1934 he moved with his family to Virginia, and Pearson later attended Duke University in Durham, North Carolina. He left school to serve in the United States Navy as a pilot during World War II, and from 1943 to 1946 he flew DC3 transport carriers across the country. While stationed at Olathe Naval Air Station he met his first wife, Martha Mitchell. In 1950 Senator Pearson graduated from the University of Virginia School of Law, and then began his first law practice in Mission, Kansas. He served as Assistant County Attorney of Johnson County from 1952 to 1954 and County Probate Judge from 1954 to 1956 before being elected to his first term as Kansas State Senator in 1956. In 1960 he led John Anderson's successful campaign for Governor and was named chairman of the GOP. In 1962 Governor Anderson appointed Pearson to the United States Senate to replace the vacancy left by deceased Senator Andrew Schoeppel. Senator Pearson was subsequently reelected twice and served as a delegate to the United Nations until he retired from the Senate in 1978. Upon his retirement he moved to Baldwin City where he lived and farmed part-time. In 1980 he married his second wife, Margaret Lynch, and the two traveled extensively between the United States, Japan, and Southeast Asia. Senator Pearson spent the remainder of his years in Baldwin City and Gloucester, Massachusetts, where Senator Pearson read voraciously and ably painted Kansas landscapes in watercolor; and

WHEREAS, Senator Pearson served on the Baker University Board of Trustees, donated his papers to the University of Kansas, and was interested in the progress of Haskell Indian Nations University; and

WHEREAS, A United States government program with his namesake offers Foreign Service workers a chance to work in other branches of government in order to learn about domestic politics, and the James B. Pearson Fellowship allows graduates of Kansas public universities opportunities to study abroad; and

WHEREAS, The post office in his hometown of Prairie Village was named the James B. Pearson Post Office in 2004; and

WHEREAS, Senator Pearson is survived by his wife Margaret, his sons James, Thomas and William, his daughter Laura, and his sister Virginia: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor James Pearson for his years of dedicated service to the government and people of Kansas and the United States and that we extend our deepest sympathies to his family, friends, constituents and admirers; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Baker University.

On emergency motion of Senator Holland **SR 1878** was adopted unanimously.

Senator Holland introduced Margaret Pearson, wife of Senator James B. Pearson. Also in attendance was quest Dr. Daniel Lambert, accompanying Margaret Pearson.

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

SENATE RESOLUTION No. 1879—

A RESOLUTION congratulating and commending Shalee Lehning.

WHEREAS, On April 9, 2009, Kansas State guard Shalee Lehning was drafted by the Atlanta Dream as the 25th overall selection in the 2009 WNBA Draft; and

WHEREAS, Shalee Lehning's selection in the WNBA Draft marked the sixth time a Kansas State player had been selected; and

WHEREAS, Shalee Lehning was born October 27, 1986 in Liberal, Kansas to Steve and Jane Lehning; and

WHEREAS, Shalee's outstanding basketball career at Sublette High School includes holding school records in scoring, rebounding, assists and steals; being the 4th all-time leading scorer in Kansas high school history; being named a Wendy's High School Heisman

Award State Finalist; 2005 Gatorade Player of the Year for Kansas; and 2005 Miss Kansas Basketball; and

WHEREAS, Shalee Lehning's remarkable success continued at Kansas State University. For the 2008-2009 season, she was an Associated Press All-America honorable mention and was named to the Lowe's All-Senior All-America first team. She also received her second selection to the All-Big 12 first team and her third straight Academic All-Big 12 first team citation. In addition, Shalee was a candidate for the Wade Trophy, a State Farm/WBCA All-America finalist, a Naismith Trophy finalist, a Wooden Award finalist, a Lieberman Award finalist and a Lowe's Senior CLASS Award finalist; and

WHEREAS, Shalee finished her senior season as the Wildcats' third-leading scorer averaging 10.7 points per game, the team's top rebounder at 7.0 per game and the Big 12 leader and second in the nation in assists per game at 7.6 per contest. Her 229 assists this season set a school record for assists in a season and set the Big 12 record for assists by a senior. She finished her career ranked first in Kansas State University history and second in Big 12 history with 800 career assists; and

WHEREAS, Shalee Lehning's contributions on and off the floor have made her a wonderful role model for all young athletes: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Shalee Lehning for her outstanding achievements and that we wish her personal and professional success with her new team, the Atlanta Dream; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Stephen Morris for presentation and an additional enrolled copy to be sent to Kansas State University, Bramlage Coliseum, 1800 College Ave., Manhattan, KS 66502.

On emergency motion of Senator Morris **SR 1879** was adopted unanimously.

Senator Morris introduced Shalee Lehning and congratulated her on her basketball accomplishments. Deb Patterson, coach and Sue Petersen were also guests in attendance.

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

SENATE RESOLUTION No. 1880—

A RESOLUTION congratulating and commending Ron Wood for his many years of community service and volunteer efforts in the Chetopa area and beyond.

WHEREAS, Ron Wood has tirelessly and skillfully worked in the United States Postal Service for 31 years, during which time he has served as a Postmaster trainer, transfer officer, and President of the southeast-central chapter of the National Association of Postmasters. For 24 years he served as the Chetopa Postmaster until his recent retirement; and

WHEREAS, Mr. Wood has a long and distinguished record of community service and leadership, including: 6 years as a councilman in Elk City, past President of the Chetopa Chamber of Commerce, 14 years as a Chetopa volunteer fireman, and 12 years on the Chetopa school board. He has been a member of the Chetopa task force, housing committee and booster club. He has also proudly served as announcer at Chetopa football games for the past 8 seasons; and

WHEREAS, Mr. Wood has been a strong member of the Masonic Lodge, the Knights of Columbus and the Marine Corp. League: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we do hereby commend and congratulate Ron Wood, his wife Bonnie, son Beau and daughter Ty, for his distinguished service in the United States Post Office and in his community; and

Be it further resolved: That the Secretary of the Senate be directed to provide four enrolled copies to Senator Dwayne Umbarger and that an additional copy be sent to Ron Wood at 401 Oak, Chetopa, KS 67336.

On emergency motion of Senator Umbarger **SR 1880** was adopted unanimously.

Senator Umbarger introduced Ron Wood for his community service and volunteer efforts. Also in attendance were guests William P. Buckley, Charles P. Thompson and Charles B. Fritz.

Senators Brownlee, Colyer and Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1881—

A RESOLUTION congratulating and commending Lucas Vincent and Chaz Lawrence.

WHEREAS, Olathe North junior Lucas Vincent won the Wrestling State Championship, for the 285 pound weight class, with an 11-4 victory; and

WHEREAS, The state title was the first for Vincent after finishing second as a sophomore; and

WHEREAS, Lucas Vincent will not wrestle as a senior so as to focus on his dream of playing NCAA Division I football; and

WHEREAS, Olathe South senior Chaz Lawrence won the Wrestling State Championship, for the 125 pound weight class, with an exciting 4-2 overtime victory; and

WHEREAS, This state title was particularly satisfying after fourth place finishes in his sophomore and junior years; and

WHEREAS, In capturing the championship, Chaz finished with a sterling record of 46-1 for the season; and

WHEREAS, The accomplishments of these two athletes in a sport as physically demanding as wrestling indicates their high level of commitment and hard work: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Lucas Vincent and Chaz Lawrence on their outstanding seasons and that we wish them success in their future endeavors; and

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

On emergency motion of Senator Brownlee **SR 1881** was adopted unanimously.

Senator Brownlee introduced Lucas Vincent for his wrestling accomplishments. Also in attendance was his coach and, Lucas' parents, Mr. and Mrs. Vincent.

Senators Brownlee, Colyer and Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1882—

A RESOLUTION congratulating and commending Clark Thomas.

WHEREAS, Clark Thomas of Olathe Northwest won the 6A Kansas Diving Championship with a total score of 468.95, a full 28 points higher than second place; and

WHEREAS, Clark Thomas also won the Sunflower League Title during his undefeated season; and

WHEREAS, Thomas' accomplishments are particularly impressive because he is only in the 9th grade and is the first freshman at Olathe Northwest to win a state championship; and

WHEREAS, Clark Thomas also excels outside of the pool, with forensics and debate being two key interests of his; and

WHEREAS, The accomplishments of Clark Thomas at such an early age reflect his determination and drive for excellence: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Clark Thomas for his outstanding accomplishments and that we wish him continued success; and

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

On emergency motion of Senator Brownlee **SR 1882** was adopted unanimously.

Senator Brownlee introduced Clark Thomas for his 6A Kansas Diving Championship.

Senators Brownlee, Colyer and Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1883—

A RESOLUTION congratulating and commending
the Olathe East High School boys swimming team.

WHEREAS, The Olathe East High School boys swimming team won its first team Swimming State Championship with 325 points; and

WHEREAS, The Olathe East Hawks significantly outscored the competition in winning the 2009 State Championship with second place Blue Valley North scoring 274 points; and

WHEREAS, The Hawks' relay team of sophomore Ben Scheffler, senior Cris Smith, freshman Ben Bravence and senior Joe Knight won the 400 meter freestyle relay with a time of 3:10.47 minutes; and

WHEREAS, Ben Scheffler also won the 100 meter backstroke with a time of 51.47 seconds; and

WHEREAS, Senior Austin Acheson of Olathe East won the 500 meter freestyle with a Kansas State Meet record of 4:35.02 minutes and was named the Athlete of the Meet; and

WHEREAS, The Olathe East team was expertly led by Head Coach Dave Youker; and

WHEREAS, The individual and team accomplishments of the Olathe East Hawks indicate the high level of commitment and excellence of these young athletes: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe East High School boys swimming team for winning its first team Swimming State Championship and that we wish them all continued success; and

Be it further resolved: That the Secretary of the Senate be directed to provide 23 enrolled copies of this resolution to Senator Karin Brownlee.

On emergency motion of Senator Brownlee **SR 1883** was adopted unanimously.

Senator Brownlee introduced the Olathe East High School boys swimming team and Head Coach Dave Youker.

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

SENATE RESOLUTION No. 1884—

A RESOLUTION congratulating the Olathe South High School boys soccer team.

WHEREAS, The Olathe South Falcons defeated rival Olathe East 1-0 on a goal by Junior Trey Bristow in winning their second state championship in school history; and

WHEREAS, The Olathe South Falcons soccer team finished the season 17-3-1 to finish the season ranked 16th nationally; and

WHEREAS, The Falcons were lead by their stout defense and goalkeeper Tanner Fox who recorded 11 shutout wins, including all five post-season victories; and

WHEREAS, During the season, the Falcons beat Oak Park, Missouri, which was ranked first in the Kansas City Metro area; nationally ranked St. Thomas Aquinas; Washburn Rural, which was ranked first in central Kansas; Maize, which was ranked first in southeast Kansas; and Olathe East, which was ranked first in northeast Kansas; and

WHEREAS, Senior captain Ethan Bauer was the Kansas Gatorade Player of the Year and was named to the Adidas/National Soccer Coaches Association of America (NSCAA) All-America Team; and

WHEREAS, Coach Will Stoskopf, whose direction helped guide the team to the championship, was named the NSCAA Kansas Coach of the Year; and

WHEREAS, Six seniors on the Falcons will continue their soccer careers at the collegiate level next year; and

WHEREAS, Considering the incredibly high level of competition the Olathe South Falcons faced, this season's accomplishments are truly impressive: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe South High School boys soccer team for an outstanding season and that we wish them all continued success; and

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

On emergency motion of Senator Brownlee **SR 1884** was adopted unanimously.

Senator Brownlee introduced the Olathe South High School boys soccer team and coach Will Stoskopf.

Senators Brownlee, Colyer and Lynn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1885—

A RESOLUTION congratulating and commending the Olathe East High School girls gymnastics team.

WHEREAS, The Olathe East High School girls gymnastics team won its second consecutive state championship with a team score of 106.350; and

WHEREAS, Senior Annie Pauls helped win the team championship by winning the All-Around title with a score of 36.5. In addition to winning the Sunflower League All-Around title during the season and qualifying for the State Tournament all four years of her high school career, Annie was named the All-Metro Gymnast of the Year for 2009; and

WHEREAS, Beth Copeland also turned in a masterful performance, winning the individual state championship in the floor exercise and finishing in second in the All-Around competition; and

WHEREAS, The Olathe East team was expertly led to this state championship by Coach Lydia Messenger; and

WHEREAS, The hard-work and dedication that is required to win the Gymnastics State Championship makes the team members' contributions truly remarkable: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe East High School gymnastics team for winning its second consecutive state championship and that we wish them continued success; and

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

On emergency motion of Senator Brownlee **SR 1885** was adopted unanimously.

REPORT ON ENROLLED BILLS

SR 1877, SR 1878, SR 1879, SR 1880 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 30, 2009.

REPORTS OF STANDING COMMITTEES

Committee on Ways and Means begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Kansas Public Employees' Retirement Board of Trustees: K.S.A. 74-4905

Michael Braude, term expires January 15, 2013

Rachel Reiber, term expires January 15, 2013

On motion of Senator D. Schmidt, the Senate recessed until 3:00 p.m.

AFTERNOON SESSION

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

COMMUNICATIONS FROM STATE OFFICERS**KANSAS DEPARTMENT OF CORRECTIONS**

April 30, 2009

In accordance with the provisions of KSA 60-4117, Roger Werholtz, Secretary of Corrections, submitted the report of the Kansas Department of Corrections State Forfeiture Fund for the period of December 1, 2007 through December 1, 2008.

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 passage of **HCR 5023**, a concurrent resolution providing for joint session of the Senate and House of Representatives for the purpose of hearing a message from the

Governor, and the appointment of Representatives Mast, Horst and Ward to escort the Governor; Representatives Shultz, Light and McCray-Miller to escort the Supreme Court; and Representative Aurand, Bethell and Williams to escort the Senators.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5023 was thereupon introduced and read by title.

On emergency motion of Senator D. Schmidt, **HCR 5023** was adopted by voice vote.

In compliance with **HCR 5023**, Vice President Vratil appointed Senators Teichman and Kelly to escort the Governor; Senators Barnett and Francis to escort the Supreme Court.

MESSAGE FROM THE HOUSE

The House not adopts the conference committee report on **HB 2060**, requests a conference and appoints representatives Colloton, Patton and McCray-Miller as second conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on **HB 2060**.

The Vice President appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2099**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2099," as follows:

"SENATE Substitute for HOUSE BILL No. 2099

By Committee on Federal and State Affairs

"AN ACT concerning open records; amending K.S.A. 2008 Supp. 45-221, as amended by section 27 of 2009 House Bill No. 2052 and repealing the existing section; also repealing K.S.A. 2008 Supp. 45-221, as amended by section 2 of 2009 Senate Bill No. 87."; and the substitute bill be passed.

Committee on **Public Health and Welfare** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Speaker of the House of Representatives:

Kansas Health Policy Authority: K.S.A. 2008 Supp. 75-7401

Kenneth L. Daniel, Jr., term expires March 15, 2012

Committee on **Ways and Means** recommends **SB 311** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 311," as follows:

"Substitute for SENATE BILL No. 311

By Committee on Ways and Means

"AN ACT concerning the state budget; state general fund and special revenue fund expenditures, transfers and ending balance requirements; reduction and allotment procedures; amending K.S.A. 75-3722 and 75-6704 and repealing the existing sections."; and the substitute bill be passed.

Vice President Vratil announced the Senate would gather at 3:40 p.m. to go to the House of Representatives to hear a message from Governor Mark Parkinson.

On motion of Senator D. Schmidt the Senate adjourned until 9:00 a.m., Friday, May 1, 2009.

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

PAT SAVILLE, *Secretary of the Senate.*

