

Journal of the Senate

EIGHTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 1, 2007—2:30 p.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,

I do not think most people realize the number of people groups to whom Senators must relate.

Such as: Caucuses, Colleagues, Committees, Conferees, Constituents, Delegations, District officers, Family, Governor, Leadership, Legislative Services, Lobbyists, Reporters, Representatives, Research, Revisors, Secretaries, Senate Secretary's Staff, and others they could name.

I ask You, O God, to help them to be mentally, physically, socially, and spiritually equipped to do their job as they deal with all of these people groups.

And I ask You in the Name of Jesus Christ,

AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

SB 238, An act relating to oil and gas; concerning fees for application of intent to drill a well; amending K.S.A. 55-151 and repealing the existing section, by Committee on Utilities.

SB 239, An act concerning long-term care insurance; providing for prompt payment of claims, by Committee on Financial Institutions and Insurance.

SB 240, An act concerning income taxation; relating to apportionment of net income; amending K.S.A. 2006 Supp. 79-3279 and repealing the existing section, by Committee on Assessment and Taxation.

SB 241, An act concerning sales taxation; relating to exemptions; Johnson county young matrons, inc.; amending K.S.A. 2006 Supp. 79-3606 and repealing the existing section, by Committee on Assessment and Taxation.

SB 242, An act concerning economic development and redevelopment of certain localities; amending K.S.A. 2006 Supp. 12-1770a, 12-1771 and 12-1774 and repealing the existing sections, by Committee on Commerce.

SB 243, An act concerning health insurance; relating to dependent coverage; amending K.S.A. 40-2218 and K.S.A. 2006 Supp. 40-2118 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 244, An act concerning funeral picketing; amending K.S.A. 21-4015 and repealing the existing section, by Senators D. Schmidt, Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson and Wysong.

SB 245. An act concerning the state long-term care ombudsman; amending K.S.A. 2006 Supp. 75-7301 and repealing the existing section, by Senators Lynn, Journey, Palmer and Schodorf.

SB 246. An act concerning certain state officials; requiring employment of persons fluent in the Spanish language; amending K.S.A. 40-110, 75-413, 75-623 and 75-3102 and K.S.A. 2006 Supp. 75-710 and repealing the existing sections, by Senator Betts.

SB 247. An act concerning district court judges; relating to the nonpartisan election thereof; amending K.S.A. 25-212 and 25-213 and K.S.A. 2006 Supp. 25-303 and repealing the existing sections, by Senator Betts.

SB 248. An act concerning crimes, punishment and criminal procedure; relating to possession of a firearm; sentencing; amending K.S.A. 21-3410 and 21-3414 and K.S.A. 2006 Supp. 21-4704 and 21-4705 and repealing the existing sections, by Committee on Judiciary.

SB 249. An act concerning cities and counties; relating to natural resource development districts, by Committee on Elections and Local Government.

SB 250. An act concerning motor vehicles; prohibiting smoking when certain children are in motor vehicle; amending K.S.A. 8-2106 and repealing the existing section, by Senator Haley.

SB 251. An act relating to crimes and punishment; concerning disorderly conduct; religious services; amending K.S.A. 21-4101 and repealing the existing section, by Senator Haley.

SB 252. An act authorizing the state board of regents to convey certain real estate located in Riley county, Kansas, for and on behalf of Kansas state university and the state of Kansas to the United States government, department of homeland security, by Committee on Commerce.

SB 253. An act concerning public officers; relating to ineligibility to hold offices of district and county attorneys and district judges based on criminal record; amending K.S.A. 19-701 and K.S.A. 2006 Supp. 20-334 and 22a-102 and repealing the existing sections, by Committee on Judiciary.

SB 254. An act concerning district attorneys; relating to the creation of the office of district attorney in certain judicial districts; expenses of office; amending K.S.A. 22a-106 and K.S.A. 2006 Supp. 22a105, 22a-107, 75-3718 and 75-3721 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 255. An act concerning insurance; pertaining to the use of lapsed rates; amending K.S.A. 2006 Supp. 40-409 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SENATE CONCURRENT RESOLUTION No. 1606—

By Senator Jordan

A CONCURRENT RESOLUTION designating the region from Manhattan, Kansas, to the Kansas City metropolitan area as the KC Animal Health Corridor and recognizing the value and economic benefits of the animal health industry throughout the state of Kansas.

WHEREAS, The Kansas legislature recognizes the region from Manhattan, Kansas, to the Kansas City metropolitan area as the national center of the animal health industry based on the unmatched concentration of animal health and nutrition businesses, educational and research assets, including:

(a) Thirty-seven global or U.S. headquarters and over 120 companies involved in the animal health industry, including four of the 10 largest global animal health companies and one of the five largest animal nutrition companies;

(b) Kansas State University College of Veterinary Medicine and the University of Missouri College of Veterinary Medicine, plus two other leading veterinary colleges located within a 300-mile radius of the region;

(c) Kansas State University's \$54 billion Biosecurity Research Institute;

(d) the University of Missouri's \$60 million Life Sciences Center and the Swine Research Center;

(e) the national center of the cattle industry. Kansas is second and Missouri is seventh in cattle and calves inventory in the U.S. More than 45% of the fed cattle in the U.S., more

than 40% of U.S. hogs and 20% of U.S. beef cows and calves are within 350 miles of the region;

(f) two nationally recognized publishers within the animal health industry producing over 30 prominent trade publications; and

(g) historical roots in the livestock industry and home of many prominent national and international associations within the animal health industry; and

WHEREAS, The Kansas legislature recognizes that retaining and growing existing animal health companies, attracting new animal health companies, increasing animal health research capacity and developing commercialization infrastructure will create quality jobs and wealth for the state: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Kansas legislature officially designates the region from Manhattan, Kansas, to the Kansas City metropolitan area as the KC Animal Health Corridor and recognizes the value and economic benefits of the animal health industry throughout the state of Kansas; and

Be it further resolved: That the Kansas legislature will maintain its favorable business environment, enhance economic development incentives to target animal health business development and consider increased support for animal health research and commercialization to foster the continued growth of the animal health industry for the benefit of the Kansas economy, universities, businesses and young people hoping to pursue an animal health career in Kansas; and

Be it further resolved: That the Kansas legislature will work with the state of Kansas and the state of Missouri to develop and pursue a common strategy to grow the animal health industry in the KC Animal Health Corridor; and

Be it further resolved: That the Secretary of State be directed to send enrolled copies of this resolution to the Governor of the State of Kansas and each member of the Kansas Congressional Delegation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **HB 2048.**

Commerce: **SB 235.**

Elections and Local Government: **HB 2080, HB 2128.**

Financial Institutions & Insurance: **SB 234; HB 2109.**

Judiciary: **SB 231, SB 233, SB 236, SB 237; HB 2062.**

Natural Resources: **HB 2046.**

Ways and Means: **SB 232.**

COMMUNICATIONS FROM STATE OFFICERS

KANSAS CORPORATION COMMISSION

Utilities Division

January 31, 2007

Pursuant to the provisions of K.S.A. 66-117b, Brian J. Moline, Chair, submitted the Annual Report to the 2007 Legislature. The report may be viewed at http://www.kcc.state.ks.us/07_legis_rpt.pdf.

KANSAS CORPORATION COMMISSION

February 1, 2007

Brian J. Moline, Chair, as required by K.S.A. 2005 Supp. 66-2005 and as amended by SB 350 which was enacted by the 2006 Legislature, submitted a Report on Price Deregulation.

KANSAS GUARDIANSHIP PROGRAM

February 1, 2007

On behalf of the Board and staff, Judge Frank J. Yeoman, Jr., Board of Directors, submitted the 2006 Annual Report.

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

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2013, HB 2110**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2013, HB 2110 were thereupon introduced and read by title.

FINAL ACTION ON CONSENT CALENDAR

SB 38 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

SB 38, An act concerning state parks; renaming state park no. 24; amending K.S.A. 2006 Supp. 32-837 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 9, An act regulating traffic; concerning video or television-type receiving equipment; amending K.S.A. 8-1748 and repealing the existing section, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Brungardt, Reitz, Teichman.

The bill passed, as amended.

SB 14, An act concerning persons required to register pursuant to the Kansas offender registration act; amending K.S.A. 2006 Supp. 22-4902 and 22-4904 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Present and Passing: Francisco.

The bill passed, as amended.

SB 34, An act concerning the transportation development district act; relating to definitions; projects; amending K.S.A. 2006 Supp. 12-17,141 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 65, An act concerning elections; relating to advance voting; amending K.S.A. 2006 Supp. 25-1122 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

SB 99, An act concerning recall petitions; pertaining to the time for filing court proceedings; amending K.S.A. 2006 Supp. 25-4308 and 25-4322 and repealing the existing sections, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1813—

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

WHEREAS, Friday, February 2, has been designated "National Wear Red Day for Women" by the American Heart Association. This action is part of the association's Go Red for Women campaign to raise awareness of cardiovascular disease, women's greatest killer and to invite women to take charge of their heart health so as to be able to live a stronger, longer life; and

WHEREAS, Red is the American Heart Association's color for women and heart disease. The association is encouraging everyone to wear some red item of clothing on February 2 in support of all women who have experienced heart disease or stroke; and

WHEREAS, Cardiovascular disease claims more women's lives each year than the next four causes of death combined, and nearly twice as many as all forms of cancer, including breast cancer. This endeavor, hopefully, will raise women's awareness of this problem because only 13% of women consider cardiovascular disease their greatest health risk. This lack of urgency about their health contributes to the death of more than 480,000 American women every year; and

WHEREAS, Women who contact the American Heart Association will be provided with suggestions and information including a comprehensive brochure on heart disease and stroke risk factors, a red dress pin and 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 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 5 enrolled copies of this resolution to Linda DeCoursey, American Heart Association, 5375 S.W. 7th Street, Topeka, KS 66606.

On emergency motion of Senator V. Schmidt **SR 1813** was adopted unanimously.

Senator V. Schmidt introduced guests, Kevin Harker, Executive Vice President, Heartland Affiliate of the American Heart Association, Mary Ann Mann, Senior Vice President, Health Strategies, and Linda DeCoursey.

REPORT ON ENGROSSED BILLS

SB 13, SB 31, SB 66, SB 69 reported correctly engrossed January 31, 2007.

REPORT ON ENROLLED BILLS

SR 1811, SR 1812, SR 1813 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 1, 2007.

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 164** be amended on page 3, in line 21, after “development” by inserting “and tourism”; in line 22, before “a” by inserting “or any successor committee.”; and the bill be passed as amended.

Committee on **Education** recommends **SB 61, SB 95, SB 153** be passed.

Also, **SB 109** be amended on page 1, in line 18, by striking all following “month”; in line 19, by striking all preceding the period; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SCR 1603** be adopted and, because the committee is of the opinion that the concurrent resolution is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Judiciary** recommends **SB 57** be passed.

Also, **SB 37** be amended and reported without recommendation on page 1, following line 34, by inserting the following:

“(e) “Commercial motor vehicle” means a motor vehicle used on a highway in interstate or intrastate commerce to transport property when the vehicle:

(1) Has a gross weight rating, or gross vehicle weight or gross combination weight, of 10,001 pounds or more; and

(2) is not used in transporting material found by the United States secretary of transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the United States secretary of transportation under 49 CFR, subtitle B, chapter I, subchapter C, and is subject to the provisions of 49 CFR 397.13 as enacted on December 12, 1994.”;

By relettering the remaining subsections accordingly;

On page 2, in line 9, by striking “the principal business is” and inserting “more than 50% of its revenue is derived from”;

On page 4, in line 4, by striking “retirement facilities.”; in line 5, by striking “and nursing homes”; in line 27, by striking “or” where it appears for the second time; in line 28, by striking “private” and inserting “Class A”; in line 29, by striking the period and inserting “;

(8) a benefit cigar dinner for charitable purposes;

(9) any adult care home licensed pursuant to K.S.A. 39-923 et seq., and amendments thereto;

(10) any veterans administration hospital within the state;

(11) any Kansas soldiers’ home established pursuant to K.S.A. 76-1901 et seq., and amendments thereto, or veterans’ home established pursuant to K.S.A. 76-1951 et seq., and amendments thereto;

(12) designated smoking areas in passenger trains;

(13) freight trains; or

(14) any commercial motor vehicle.”;

On page 5, by striking all in lines 10 through 43;

On page 6, by striking all in lines 1 through 23 and inserting the following:

“New Sec. 5. (a) The board of county commissioners of any county may, by resolution, exempt such county from the provisions of K.S.A. 21-4009 through 21-4014, and amendments thereto. The resolution shall be published once each week for two consecutive weeks in the official county newspaper.

No such resolution shall take effect until 30 days after its final publication, and if within 30 days of its final publication a petition signed by not less than 5% of the qualified electors of the county shall be filed with the county election officer demanding that such resolution be submitted to a vote of the electors, it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

(b) Any county election called under the provisions of this act shall be called within 30 days and held within 90 days after the filing of a petition demanding such election. The board of county commissioners shall pass a resolution calling the election and fixing the

date, which resolution shall be published once in the official county newspaper. The sufficiency of the number of signers of any petition filed under this act shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer. The county election officer shall publish a notice of such election once each week for three consecutive weeks in the official county newspaper, the first publication to be not less than 21 days prior to such election. The notice shall state the time of the election and the proposition which shall appear on the ballot. The proposition shall be: "Shall the resolution No. _____ entitled (title of resolution) take effect?"

New Sec. 6. If any county exempting such county from the provisions of K.S.A. 21-4009 through 21-4014, and amendments thereto, under section 5, and amendments thereto, such county shall comply with the provisions of sections 7 through 12, and amendments thereto.

New Sec. 7. As used in sections 7 through 12, and amendments thereto: (a) "Public place" means enclosed indoor areas open to the public or used by the general public including, but not limited to: Restaurants, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, educational facilities, libraries, courtrooms, state, county or municipal buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities.

(b) "Public meeting" includes all meetings open to the public.

(c) "Smoking" means possession of a lighted cigarette, cigar, pipe or any other lighted smoking equipment.

New Sec. 8. (a) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(b) Smoking areas may be designated by proprietors or other persons in charge of public places, except in passenger elevators, school buses, public means of mass transportation and any other place in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(c) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas.

New Sec. 9. The proprietor or other person in charge of the premises of a public place shall post or cause to be posted in a conspicuous place signs clearly stating that smoking is prohibited by state law. The person in charge of the premises shall also post or cause to be posted in any designated smoking area, signs stating that smoking is permitted in such room or area. The proprietor or person in charge of the public place shall have the authority to establish the percentage of area in the public place which shall be posted and designated as a smoking area.

New Sec. 10. Any person found guilty of smoking in violation of sections 7 through 12, and amendments thereto, is guilty of a misdemeanor punishable by a fine of not more than \$20 for each violation. In addition, the department of health and environment, or local department of health, may institute an action in any court of competent jurisdiction to enjoin repeated violations of sections 7 through 12, and amendments thereto.

New Sec. 11. Nothing in sections 7 through 12, and amendments thereto, shall prevent any city from regulating smoking within its boundaries, so long as such regulation is at least as stringent as that imposed by sections 7 through 12, and amendments thereto. In such cases the more stringent local regulation shall control to the extent of any inconsistency between such regulation and sections 7 through 12, and amendments thereto.

New Sec. 12. If any provision of sections 7 through 12, and amendments thereto, or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions of application of sections 7 through 12, and amendments thereto, that can be given effect without the invalid provision or application, and to this end the provisions of sections 7 through 12, and amendments thereto, are declared to be severable.;

And by renumbering the remaining sections accordingly;

On page 7, in line 13, by striking "and K.S.A. 2006 Supp. 20-350";

In the title, in line 10, by striking "and" where it appears the second time; in line 11, by striking all preceding "and"; and the bill be reported as amended.

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Committee on **Transportation** recommends **HB 2041** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, February 2, 2007.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

