

# Journal of the Senate

THIRTEENTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, January 29, 2009—2:30 p.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with thirty-nine senators present.  
Senator Steineger was excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

There are some birthday presents we wish we could give Kansas on her 148th anniversary:

Plenty of rain but not too much.  
Safe streets and sober drivers.  
No drugs and no drop-outs.  
Unabused children and unbattered spouses.  
Zero unemployment.  
No damaging tornados.  
A balanced budget.  
No burglaries and no murders.  
Either K-State or KU become NCAA national basketball champions,

I am sure at least some of our aspirations exceed our expectations, but most of all we pray that Your will be done.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 140**, An act relating to property taxation; enacting the senior citizen property tax deferral act, by Committee on Assessment and Taxation.

**SB 141**, An act concerning the division of post audit; transferring the inspector general and the office of the inspector general from the Kansas health policy authority to the division of post audit; amending K.S.A. 2008 Supp. 75-7427 and repealing the existing section, by Committee on Judiciary.

**SB 142**, An act concerning transportation; relating to designation of certain highway segments as safety corridors by the secretary of transportation; establishing the traffic safety corridor fund; amending K.S.A. 2008 Supp. 8-2118 and repealing the existing section, by Committee on Transportation.

**SB 143**, An act enacting the Kansas immigration accountability act, by Committee on Federal and State Affairs.

**SB 144**, An act concerning planning and zoning; dealing with certain easements; amending K.S.A. 19-2633 and 19-2961 and K.S.A. 2008 Supp. 12-752 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 145.** An act regulating traffic; concerning driving in the right lane; amending K.S.A. 8-1522 and repealing the existing section, by Committee on Federal and State Affairs.

**SB 146.** An act concerning the Kansas public employees retirement system; relating to computation of benefits for officers and employees when the rate of computation is reduced or placed on furlough; amending K.S.A. 74-49,115 and repealing the existing section, by Committee on Ways and Means.

**SB 147.** An act concerning the department of health and environment; relating to HIV screening for pregnant women and newborn children; rules and regulations, by Committee on Public Health and Welfare.

**SB 148.** An act concerning missing elderly persons; establishing the Kansas silver alert plan, by Committee on Judiciary.

**SB 149.** An act concerning school districts; relating to school finance; relating to supplemental general state aid; amending K.S.A. 2008 Supp. 72-6434 and repealing the existing section, by Committee on Education.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Commerce: **SB 138.**

Education: **SB 130, SB 131; SCR 1604.**

Financial Institutions & Insurance: **SB 136, SB 137, SB 139.**

Judiciary: **SB 132, SB 134, SB 135; SCR 1605.**

Ways and Means: **SB 133.**

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**Sub for SB 23.** An act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010 and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 55-193, 79-2978, 79-2979, 79-3425i, 79-34,156, 79-4801 and 82a-953a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 25, Nays 14, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Brownlee, Bruce, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Masterson, Ostmeier, Petersen, Pilcher-Cook, Pyle, Schmidt V, Teichman, Umbarger, Wagle.

Nays: Apple, Barnett, Brungardt, Emler, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schodorf, Taddiken, Vratil, Wysong.

Absent or Not Voting: Steineger.

The substitute bill passed, as amended.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I respectfully vote "No" on **Senate Substitute for SB 23**. This bill is a failure to address the fundamental budget problem we face; we are spending more than we are receiving during an economic downturn of historic proportion. In my opinion this bill will result in dramatic reduction in services to our most needy and vulnerable Kansans or a tax increase.

While I am opposed to this bill for the reasons outlined above, I am most opposed to an earmark contained within the bill. The definition of an earmark is an item placed in a budget bill at the eleventh hour for the benefit of a select few. The earmark of over \$6.6 million could be used to help fund our community mental health or reduce the waiting list for those needing developmental disabilities services. The hearts must be warmed across Kansas of the people who advocate for big government because earmarks are alive and well under the dome at our state capital. Some may say this is not an earmark but just good fiscal policy. My response is that no matter how much lipstick you put on an earmark it is still an earmark.

—PAT APPLE

Senators Barnett, McGinn, Reitz, Schodorf and Vratil request the record to show they concur with the "Explanation of Vote" offered by Senator Apple on **Sub for SB 23**.

MR. PRESIDENT: This bipartisan compromise is a small start at correcting years of bad policy. The best way to ensure the future of our state and fix our budget crisis is to grow the Kansas economy. We should be first out of the recession—not last.

We didn't have to be in this position even with this recession. Previous budgets grew several times faster than the rate of inflation. If it grew at just 5% or had a rainy day fund, we would be talking about giving every Kansas family a \$500 rebate instead of closing schools and raising taxes.

Some had months and years to make the necessary cuts, but refused to lead. By waiting, it forced more painful and unnecessary cuts that harm students, damages essential programs, and hurts our economy.

The previous version of **SB 23** hurt the neediest Kansans, closed prisons and harmed schools. It created the possibility of a major tax increase at the height of the recession which would devastate jobs.

Kansans want smaller, more effective government that encourages jobs and growth. They want us to retool how government functions so that it can serve Kansans better.

While imperfect the bipartisan compromise is a small start in the right direction. — JEFF COLYER

Senator Brownlee requests the record to show she concurs with the "Explanation of Vote" offered by Senator Colyer on **Sub for SB 23**.

MR. PRESIDENT: I vote Aye on **Substitute for Senate Bill 23**.

With a budget shortfall unprecedented since I began serving in the Kansas Legislature, it is more important than ever that Democrats and Republicans work in bipartisan cooperation. Unfortunately, the drafting of this bill as it left committee did not involve this cooperation.

Without a seat at the table, a majority of Senators felt it necessary to form a coalition.

Together, we drafted a bipartisan alternative that responds in part to our budget problems and has a reasonable chance of becoming law. While this bipartisan approach is based on tough choices, we strived to keep the commitment we made to K-12 education while preventing local property tax increases, to protect our most vulnerable citizens, and to maintain public safety. Essentially, we've taken the first step to finding solutions necessary to resolve our budget shortfall without causing major hardships in the midst of the current fiscal year.

Collaboration, not confrontation, is what our constituents expect and deserve from us. I urge all members of the Kansas Senate, regardless of party, to work together as we move forward in our consideration of the 2010 budget. — ANTHONY HENSLEY

Senators Faust-Goudeau, Haley, Kelly, Kultala and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **Sub SB 23**.

MR. PRESIDENT: The budget crisis we are facing now in Kansas has been years in the making — years of overspending that is. For years many of us have been warning that this day was coming and we are heartened that many now recognize the need for fiscal responsibility. The road to a balanced budget is not easy — but it is necessary and long overdue. I vote aye. — TIM HUELSKAMP

Senators Abrams, Brownlee, Haley, Kelsey and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **Sub SB 23**.

MR. PRESIDENT: I vote aye on this legislation which makes cuts to the '09 budget. This action would not be necessary had sound fiscal policy been followed in previous years. Deficit spending, as well as poor management of revenue in good economic times has brought about these difficult budget issues. Those voting for budgets in prior years need only briefly look back to see how the state got in this situation. — DENNIS PYLE

MR. PRESIDENT: Today is a historic day. Given the difficult task we have of balancing our budget, this body is about to pass **S Sub for SB 23** which results in a 3.8 million dollar tax increase.

I believe this signals to Kansans across the state this bodies willingness to increase revenues.

Today we had a bill introduced in Ways and Means that would increase fees by 50% for the state water plan fund.

I predict that this is only the beginning, and that with the passage of this tax increase the pressure for additional tax increases will only grow stronger. — MARK TADDIKEN

Senators Barnett, McGinn and Schodorf request the record to show they concur with the “Explanation of Vote” offered by Senator Taddiken on **Sub SB 23**.

#### REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **SB 11** be passed.

Committee on **Ethics and Elections** recommends **SB 43** be passed.

Committee on **Federal and State Affairs** recommends **SB 3** be passed.

Also, **SB 29** be amended on page 3, in line 25, after “the” by inserting “planning, mapping and”; in line 26, by striking “planning, mapping,” and inserting “the”; in line 38, by striking “fixed” and inserting “engineering”; also in line 38, by striking all after “works”; in line 39, by striking all before the period;

On page 12, in line 21, by striking all after “profession”; in line 22, by striking “be responsible for the”; in line 23, by striking “activities and decisions relating to”; in line 24, by striking all before “and”; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SB 51** 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 **Transportation** recommends **SB 5** 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, January 30, 2009.

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

PAT SAVILLE, *Secretary of the Senate.*

