CORRECTED

Journal of the Senate

EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS Thursday, January 21, 2010—2:30 p.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. Robert H. Meneilly, Pastor emeritus, Village Presbyterian Church, Prairie Village, Kansas, who delivered the invocation.

God of all peoples, whatever our faith or absence of faith, attend we pray, this solemn assembly of public servants.

Bless these who have been chosen by the citizens of Kansas that they may do their work in a spirit of wisdom, kindness and justice. Give to these women and men a stubborn determination to make for civility in politics, and a determination to work in a bipartisan way that our state may flourish. Especially in these trying times of insufficient funds and public discord, guide each of these, both the mind and heart, to discern your will and do it. Help them to exercise their authority to serve faithfully, and to promote the general welfare of all citizens alike, forever keeping our faith communities and public policy separate. Cause your will to come through loudly and clearly so that not one can miss what is right, just and true, so help us God.

Amen

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 406, An act concerning taxation; relating to delinquent taxes; establishing service fee for taxpayers on installment payment plans, by Committee on Assessment and Taxation.

SB 407, An act concerning the liquor enforcement tax; relating to violations of such law; prescribing penalties therefor; licensees and persons required to be licensed, by Committee on Assessment and Taxation.

SB 408, An act relating to vehicles; concerning the registration thereof; amending K.S.A. 2009 Supp. 8-145d and repealing the existing section, by Committee on Transportation.

SB 409, An act establishing the passenger rail service program; providing for powers and duties of the secretary of transportation; establishing the passenger rail service revolving fund, by Committee on Ways and Means.

SB 410, An act concerning certain electronic payments received by state agencies; imposing notice requirements and civil penalty; amending K.S.A. 2009 Supp. 75-30,100 and repealing the existing section, by Committee on Ways and Means.

SB 411, An act concerning crimes and punishment; relating to criminal possession of a firearm; amending K.S.A. 2009 Supp. 21-4204 and repealing the existing section, by Committee on Judiciary.

SB 412, An act concerning taxation upon certain tobacco products; relating to little cigars; amending K.S.A. 79-3371 and K.S.A. 2009 Supp. 79-3301 and repealing the existing sections, by Committee on Federal and State Affairs.

- **SB 413**, An act concerning taxation upon certain tobacco products; relating to moist snuff; amending K.S.A. 79-3371 and K.S.A. 2009 Supp. 79-3301 and repealing the existing sections, by Committee on Federal and State Affairs.
- SB 414, An act concerning the health care stabilization fund; amending K.S.A. 2009 Supp. 40-3403 and 40-3404 and repealing the existing sections, by Committee on Financial Institutions and Insurance.
- SB 415, An act concerning certain municipalities; pertaining to investment in certain bonds; pertaining to investment of certain bond income; amending K.S.A. 10-131 and K.S.A. 2009 Supp. 10-1009 and 12-1675 and repealing the existing sections, by Committee on Financial Institutions and Insurance.
- SB 416, An act concerning ethics and election related issues; relating to state educational employees; amending K.S.A. 2009 Supp. 46-247a and repealing the existing section, by Committee on Ethics and Elections.
- SB 417, An act concerning ethics and election related issues; relating to campaign finance; amending K.S.A. 2009 Supp. 25-4148a and repealing the existing section, by Committee on Ethics and Elections.
- SB 418, An act concerning campaign finance; relating to electioneering communication;
- establishing certain reporting requirements, by Committee on Ethics and Elections.

 SB 419, An act concerning election of city officers; pertaining to filing requirements; amending K.S.A. 2009 Supp. 25-2110 and 25-2110a and repealing the existing sections, by Committee on Ethics and Elections.
- SB 420, An act concerning county extension councils; pertaining to the date of election of the governing body; amending K.S.A. 2-624 and repealing the existing section, by Committee on Ethics and Elections.
- SB 421, An act concerning election crimes; pertaining to the penalty for voting when not qualified; amending K.S.A. 25-2416 and repealing the existing section, by Committee on Ethics and Elections.
- SB 422, An act concerning elections; pertaining to certain primary elections; amending K.S.A. 25-2102 and K.S.A. 2009 Supp. 25-2021, 25-2108a and 71-1415 and repealing the existing sections, by Committee on Ethics and Elections.
- SB 423, An act concerning certain public officers and employees; relating to use of unexpended campaign funds; amending K.S.A. 25-4142 and K.S.A. 2009 Supp. 25-4143 and 25-4157a and repealing the existing sections, by Committee on Ethics and Elections.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Assessment and Taxation: SB 397.

Federal and State Affairs: SB 401.

Judiciary: SB 398, SB 399, SB 400.

Utilities: SB 402; SR 1805.

Ways and Means: SB 403, SB 404, SB 405.

CHANGE OF REFERENCE

The Vice President withdrew the appointment of Michael C. Moffet to the State Corporation Commission from the calendar under the heading of Consideration of Appointments and referred it to the Committee on **Utilities**.

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DEPARTMENT ON AGING

Martin Kennedy, Acting Secretary, submitted the July 1, 2008 - June 30, 2009 Annual Report.

KANSAS CORPORATION COMMISSION

January 14, 2010

Thomas E. Wright, Chairman, submitted a report concerning the availability of Broadband services in the State of Kansas, as directed by the 2008 Legislature in KSA 66-1250 through 1254.

KANSAS HIGHWAY PATROL

January 15, 2010

Pursuant to KSA 60-4117, Terry L. Maple, Superintendent, Kansas Highway Patrol, submitted the annual report regarding state for feiture funds.

KANSAS DEPARTMENT OF ADMINISTRATION

January 19, 2010

Kent E. Olson, Director, Division of Accounts and Reports, submitted a CD containing the 56th Annual Financial Report of the State of Kansas for the fiscal year ended June 30, 2009. This Comprehensive Annual Financial Report (CAFR) is not distributed in bound book form, but is available on line at http://da.ks.gov/ar/finrept.

The Vice 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 adoption of HCR 5025.

Also, announcing adoption of **HCR 5027**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5025, HCR 5027 were thereupon introduced and read by title.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor and Attorney General to the Senate for confirmation, were considered.

Senator D. Schmidt moved the following appointments be confirmed as recommended by the Standing Senate Committees:

By the Governor:

On the appointment to the:

Kansas Electric Transmission Authority:

Timothy E. McKee, term expires March 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

Absent or Not Voting: Donovan, Wagle.

The appointment was confirmed.

On the appointment to the:

Kansas Health Policy Authority:

Dr. Vernon Mills, term expires March 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

Absent or Not Voting: Donovan, Wagle.

The appointment was confirmed.

On the appointment to the:

Kansas Parole Board:

Robert Sanders, term expires January 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

Absent or Not Voting: Donovan, Wagle.

The appointment was confirmed.

On the appointment to the:

Kansas Parole Board:

Michael "Thomas" Sawyer, term expires January 15, 2011.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

Absent or Not Voting: Donovan, Wagle.

The appointment was confirmed.

On the appointment to the:

State Board of Regents:

Christine L. Downey-Schmidt, term expires June 30, 2013.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

Absent or Not Voting: Donovan, Wagle.

The appointment was confirmed.

On the appointment to the:

State Board of Regents:

Robert Daniel Lykins, term expires June 30, 2013.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

Absent or Not Voting: Donovan, Wagle.

The appointment was confirmed.

On the appointment to the:

State Board of Regents:

Juana "Janie" Perkins, term expires June 30, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

Absent or Not Voting: Donovan, Wagle.

The appointment was confirmed.

On the appointment to the:

State Court of Tax Appeals:

Rebecca Crotty, term expires January 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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

Absent or Not Voting: Donovan, Emler, Wagle.

The appointment was confirmed.

On the appointment to the:

Secretary of Department on Aging:

Martin A. Kennedy, serves at the pleasure of the Governor.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

Absent or Not Voting: Donovan, Emler, Wagle.

The appointment was confirmed.

On the appointment to the:

Secretary of Kansas Department of Agriculture:

Joshua Svaty, serves at the pleasure of the Governor.

On roll call, the vote was: \hat{Y} eas 37, Nays 0, Present and Passing 0, Absent or Not Voting 3.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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

Absent or Not Voting: Donovan, Emler, Wagle.

The appointment was confirmed.

On the appointment to the:

University of Kansas Hospital Authority:

Betty T. Keim, term expires March 15, 2012.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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,

Absent or Not Voting: Donovan, Emler, Wagle.

The appointment was confirmed.

By the Attorney General:

On the appointment to the:

Crime Victims Compensation Board:

Nan Porter, term expires March 15, 2013.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

Absent or Not Voting: Donovan, Emler, Wagle.

The appointment was confirmed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Morris, Abrams, Barnett, Brownlee, Brungardt, Emler, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Ostmeyer, Owens, Reitz, V. Schmidt, Schodorf, Steineger, Taddiken, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1806-

A RESOLUTION declaring January as Kansas Mentoring Month.

WHEREAS, The citizens of Kansas recognize that our continued success depends on ensuring every child succeeds in school and attains their full potential in life and to accomplish this, young Kansans need a solid foundation of support to become well-educated, confident and productive citizens; and

WHEREAS, Mentoring is a proven, effective strategy that empowers children and young adults by matching them with a caring, responsible adult who can provide guidance and direction and build the child's confidence; and

WHEREAS, Mentors build character, encourage success, boost confidence, lift expectations and expand the universe of a child, serving as friends, role models, teachers and sources of stability and support during a critical time in a child's life and development; and

WHEREAS, Research shows mentoring has beneficial and long-term effects on youth, increasing their chances of high school graduation and college attendance and decreasing the likelihood of substance abuse and other high risk behaviors; and

WHEREAS, Mentoring strengthens Kansas' economic and social well-being by helping young people fulfill their potential while learning to maintain healthy families and promote more vibrant communities; and

WHEREAS, By serving as mentors, every day residents of Kansas make a profound difference in the lives of our young people, supported by many private and public sector organizations that offer mentoring opportunities for youth; and

WHEREAS, Thousands of Kansas children need a caring adult mentor in their lives and closing this mentoring gap will requires greater investment, increased partnerships and more quality volunteers ready to make a difference in a child's life; and

WHEREAS, Kansas recognizes this need by supporting Kansas Mentors, a statewide mentoring partnership that works with over 175 mentoring programs to increase the number of young Kansans being served by quality mentoring relationships; and

WHEREAS, National Mentoring Month offers an opportunity to raise public awareness of the benefits of mentoring, recognize the dedicated individuals who serve as mentors and encourage more citizens to build a brighter future for Kansas youth through mentoring: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the month of January 2010 is hereby declared Kansas Mentoring Month and the people of Kansas are called upon to recognize the value of mentoring, to look for opportunities to serve as mentors in their communities and to observe this month with appropriate activities and programs.

On emergency motion of Senator Reitz SR 1806 was adopted unanimously.

Bill Snyder was recognized for his dedication with the program. Also welcomed were several Kansas Mentors from throughout the state.

REPORTS OF STANDING COMMITTEES

Committee on **Public Health and Welfare** 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 President of the Senate:

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

William Allen Reed, M.D., term expires March 15, 2012

By the Governor:

Long-Term Care Ombudsman: K.S.A. Supp. 75-7304

Belinda Sue Vierthaler, term expires March 15, 2012

University of Kansas Hospital Authority: K.S.A. Supp. 76-3304

Scott M. Slabotsky, term expires March 15, 2012

By the Kansas Health Policy Authority:

Kansas Health Policy Authority, Executive Director: K.S.A. Supp. 75-7402

Dr. Robert Andrew Allison, serves at the pleasure of the Kansas Health Policy Authority

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 Barnett in the chair.

SB 348 be amended by adoption of the committee amendments, and the bill be passed as amended.

A motion to refer **SB** 348 back to the Committee on Public Health and Welfare failed. The following amendment by Senator Haley to **SB** 348 was rejected:

On page 5, by striking all in lines 39 through 42; in line 43, by striking "(35)" and inserting "(33)".

A second amendment by Senator Haley to **SB 348** was rejected: on page 6, in line 39, by striking "Kansas register" and inserting "statute book".

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 ${\bf SB~348}$ was advanced to Final Action and roll call.

SB 348, An act concerning controlled substances; relating to certain schedule I drugs; amending K.S.A. 2009 Supp. 65-4105 and repealing the existing section.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Emler, Faust-Goudeau, Hensley, Holland, Huelskamp, Huntington, 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.

Navs: Halev.

Present and Passing: Francisco.

Absent or Not Voting: Donovan, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: As a physician, I have seen first-hand the effects of drug abuse in teens and young adults. I've seen good people make bad decisions and be lead down paths they wouldn't have taken if it were not for drugs. Today, we have the opportunity to step in front of a substance that will have nothing but negative effects on the children and young adults in this great State. Join me today in voting yes on **SB 348**, because even though it is an imitation drug, it is still a drug. Thank you. — JIM BARNETT

MR. VICE PRESIDENT: I voted "pass" on **SB 348** after my motion to send this bill back to committee failed. I believe that our current statutes (K.S.A. 65-657) allow for the prohibition of the sale of the synthetic cannabinoids as they are constituents of K2, which is an altered device that is being misbranded. Four substances are identified in **SB 348**. In contrast to "HU-210" and N-benzlpiperazine which have DEA controlled substances codes that are called for in the statute, there are no codes for "JWH-018" and "JWH-073". Including the two non-controlled substances in this bill is in conflict with both the delegation of authority by the legislature to the Board of Pharmacy and with K.S.A. 65-4102 (c): "The

Board shall not include any non-narcotic substance within a schedule if such substance may be lawfully sold over the counter without a prescription under the federal food, drug and cosmetic act." My hope is that research on synthetic cannabinoids will produce drugs that will be effective in the treatment of neuroinflammatory disorders and other diseases and that actions of the Kansas legislature encourage rather than discourage such research. — MARCI FRANCISCO

MR. VICE PRESIDENT: I proudly vote "NO on SB 348.

When this measure is one day repealed, K-2 (an "alternate to marijuana") will be perhaps proven less harmful to the human body and less addictive than tobacco, many currently prescribed drugs and alcohol. We should regulate this stuff and tax it as we do the others or at least continue to allow its proven medicinal to alleviate pain, nausea etc.

As youth and others continue to search for legal ways to explore their flights of fancy, I fear that they will encounter more dangerous ways to experiment and ultimately do their minds and bodies true harm.

Although I do not condone drug use in any form and, in fact, support the addition of "BZP" and "HU 210" to the schedule, I remember the admonitions of the public hysteria associated with the movie "Reefer Madness" which attributed, falsely, ill effects to the smoking of marijuana.

It would be hypocritical to know this and repeat with my vote today a condemnation of a substance which no other state but Kansas will now rush to make illegal. — DAVID HALEY

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, January $22,\ 2010.$

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, $\it Journal Clerks.$ PAT SAVILLE, Secretary of the Senate.