

# Journal of the Senate

## FIRST DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Monday, January 14, 2008—2:00 p.m.

In accordance with the provisions of the constitution of the State of Kansas and by virtue of his office as President of the Senate, Senator Stephen Morris declared the 2008 Senate to be in session.

President Morris welcomed the Rev. Fred S. Hollomon, who will again serve as the Senate Chaplain and delivered the following invocation:

Heavenly Father,

For the twenty-seventh time I stand here on the first day of the Senate session to pray for forty Senators, each of whom represents about 70,000 Kansans.

I do not know each of them as well as their family, their friends, their colleagues, and many of their constituents. But, taken as a whole, I may know them better than most people. I listen to them in conversation, I listen to them on the floor, I listen to their secretaries, I listen to the staff, I watch the way they vote.

As You know, O God, I pray for each of them by name in my private prayers. I feel I have a unique investment in their lives. I do not take my invocations lightly. As You know, I spend a great deal more time preparing them than in praying them.

I have the opportunity to share their grief with many of them in the loss of loved ones. So I pray today for Your wisdom, Lord, that I may never take my opportunities for granted. Lay on my heart what I should pray and how I should pray. I trust You with my mind and my heart.

And I pray all this in the Name of Your Son, Jesus Christ,

AMEN

President Morris introduced the new reader, Tom Shepherd.

The roll was called with thirty-nine senators present as follows:

### District

1 Dennis D. Pyle  
2 Marci Francisco  
3 Roger C. Pine  
4 David Haley  
5 Mark S. Gilstrap  
6 Chris Steineger  
7 David Wysong  
8 Barbara P. Allen  
9 Julia Lynn  
10 Nick Jordan  
11 John L. Vratil

### District

12 Pat Apple  
13 Jim Barone  
14 Dwayne Umbarger  
15 Derek Schmidt  
16 Peggy Palmer  
17 Jim Barnett  
18 Laura Kelly  
19 Anthony Hensley  
20 Vicki Schmidt  
21 Mark Taddiken  
22 Roger P. Reitz

**District**

23 Karin Brownlee  
 24 Pete Brungardt  
 25 Jean Kurtis Schodorf  
 26 Phillip B. Journey  
 27 Leslie D. Donovan, Sr.  
 28 Mike Petersen  
 29 Donald Betts, Jr.  
 30 Susan Wagle  
 31 Carolyn McGinn

**District**

32 Greta Goodwin  
 33 Ruth Teichman  
 34 Terry Bruce  
 35 Jay Emler (excused)  
 36 Janis K Lee  
 37 Dennis M Wilson  
 38 Tim Huelskamp  
 39 Stephen R Morris  
 40 Ralph Ostmeyer

**INTRODUCTIONS**

President Morris introduced Dr. Michael Kennedy, President of the Kansas Academy of Family Physicians. Dr. Kennedy was named a McCann Professor in Rural Health and the Assistant Dean of Rural Health Education at KUMC in the Department of Family Medicine. He is a graduate of the University of Kansas School of Medicine. His primary interest is providing rural Primary Care Medicine experiences for residents and students. The Academy sponsors the doctor of the day program and provides daily assistance for health concerns in the Capitol during the session. Accompanying Dr. Kennedy was his wife, Carla.

Also introduced were Steve LaGrone and Ed Porubsky, Doorkeepers; Verla Vines, Administrative Assistant; Pat Matzek, Journal Clerk; Charlene Bailey, Journal Clerk and Lori Cackler, Enrolling Clerk. of the Senate.

Second Lieutenant Don Cackler will again be representing the Kansas Highway Patrol in the Senate.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

On emergency motion of Senator D. Schmidt, **SR 1801** by Senators Morris, D. Schmidt and Hensley as follows, was introduced and adopted by voice vote:

SENATE RESOLUTION No. 1801—

By Senators Morris, D. Schmidt and Hensley

A RESOLUTION relating to the organization of the Senate.

*Be it resolved by the Senate of the State of Kansas:* That the Secretary of the Senate notify the House of Representatives that the Senate is organized with the following officers:

Stephen Morris, president,  
 John Vratil, vice president,  
 Derek Schmidt, majority leader,  
 Anthony Hensley, minority leader,  
 Pat Saville, secretary,  
 Jody Kirkwood, sergeant at arms,

and awaits the pleasure of the House of Representatives.

**INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following pre-filed and newly introduced bills and resolutions were introduced and read by title:

**SB 396**, An act creating the nurse licensure compact; directing the governor to enter into a compact; approving and specifying terms of the compact; amending K.S.A. 65-1114 and 65-1120 and K.S.A. 2007 Supp. 65-1124 and repealing the existing sections, by Senator Emler (By Request).

**SB 397**, An act concerning intoxicating liquors and beverages; relating to national guard installations; amending K.S.A. 2007 Supp. 41-719 and repealing the existing section, by Senator Haley.

**SB 398**, An act concerning insurance; providing coverage for autism; amending K.S.A. 2007 Supp. 40-2,103, 40-2,105, 40-2,105a and 40-19c09 and repealing the existing sections, by Legislative Educational Planning Committee (By Request of the Kansas Autism Task Force).

**SB 399.** An act concerning school districts; relating to kindergarten; amending K.S.A. 72-1106 and 72-1107 and K.S.A. 2007 Supp. 72-1111 and 72-53,106 and repealing the existing sections, by Legislative Educational Planning Committee.

**SB 400.** An act concerning school districts; relating to school finance; relating to the program weighting; amending K.S.A. 2007 Supp. 72-6413 and repealing the existing section, by Legislative Educational Planning Committee (By Request of the 2010 Commission).

**SB 401.** An act concerning school districts; relating to school finance; amending K.S.A. 2007 Supp. 72-6407 and 72-8187 and repealing the existing sections, by Legislative Educational Planning Committee (By request of the 2010 Commission).

**SB 402.** An act concerning school districts; relating to school finance; relating to base state aid per pupil; amending K.S.A. 2007 Supp. 72-6410 and repealing the existing section, by Legislative Educational Planning Committee (By Request of the 2010 Commission).

**SB 403.** An act concerning postsecondary educational institutions; relating to the faculty of distinction program; amending K.S.A. 2007 Supp. 76-774, 76-775 and 76-776 and repealing the existing sections, by Legislative Educational Planning Committee.

**SB 404.** An act concerning the Kansas academy of mathematics and science; relating to students admitted thereto; relating to fees and tuition; amending K.S.A. 2007 Supp. 72-1111, 72-9711, 72-9712 and 72-9713 and repealing the existing sections, by Legislative Educational Planning Committee.

**SB 405.** An act concerning school districts; relating to school finance; relating to certain definitions; amending K.S.A. 2007 Supp. 72-6407 and repealing the existing section, by Legislative Educational Planning Committee.

**SB 406.** An act concerning colleges and universities; relating to fees and tuition; establishing the autism service scholarship program, by Legislative Educational Planning Committee (By request of the Kansas Autism Task Force).

**SB 407.** An act concerning early childhood education; relating to the transfer of authority of certain early childhood education programs to the department of education, by Legislative Educational Planning Committee.

**SB 408.** An act concerning early childhood education; relating to the transfer of authority of the infants and toddlers with disabilities services program to the department of education; amending K.S.A. 75-5648 and 75-5649 and repealing the existing sections, by Legislative Educational Planning Committee.

**SB 409.** An act relating to crimes, punishment and criminal procedure; amending K.S.A. 21-4704, 21-4705 and 21-4729 and repealing the existing sections; also repealing K.S.A. 21-4704b, by Senators D. Schmidt, Apple, Barone, Donovan, Jordan, Journey, Lynn, Ostmeyer, Peterson, Pine, Schodorf, Taddiken, Umbarger, Wagle and Wilson.

**SB 410.** An act concerning juvenile corrections; amending K.S.A. 76-2101, 76-2125 and 76-2128 and K.S.A. 2007 Supp. 38-2302, 76-2101a, 76-3201 and 76-3202 and repealing the existing sections; also repealing K.S.A. 76-2111, by Joint Committee on Corrections and Juvenile Justice Oversight.

**SB 411.** An act concerning crimes, criminal procedure and punishment; relating to parole suitability factors; amending K.S.A. 22-3717 and repealing the existing section, by Special Committee on Judiciary.

**SB 412.** An act concerning health care; relating to medical and other care and services assistance repayment; discretionary trusts; amending K.S.A. 2007 Supp. 39-709 and repealing the existing section, by Special Committee on Judiciary.

**SB 413.** An act concerning crimes, criminal procedure and punishment; concerning collection of certain specimens; amending K.S.A. 21-2511 and repealing the existing section, by Special Committee on Judiciary.

**SB 414.** An act concerning district attorneys; relating to the creation of the office of district attorney in certain counties; expenses of office; amending K.S.A. 22a-102, 22a-103, 22a-105, 22a-106, 22a-107 and 25-617 and K.S.A. 2007 Supp. 25-213, 25-611, 75-3718 and 75-3721 and repealing the existing sections, by Special Committee on Judiciary.

**SB 415.** An act concerning postsecondary educational institutions; relating to deferred maintenance; amending K.S.A. 2007 Supp. 72-4479, 76-7,105, 76-7,117, 76-7,120 and 79-32,261 and repealing the existing sections, by Joint Committee on State Building Construction.

**SB 416**, An act relating to the division of emergency management; providing for a Kansas emergency response force; amending K.S.A. 48-915, 48-928 and 65-5722 and K.S.A. 2007 Supp. 44-510h, 44-511, 44-577 and 75-6102 and repealing the existing sections, by Joint Committee on Kansas Security.

**SB 417**, An act concerning rural housing; creating the housing development grant program; exempting certain cities from certain requirements for rural housing incentive district financing; amending K.S.A. 12-5246 and K.S.A. 2007 Supp. 12-5242, 79-4803 and 79-4804 and repealing the existing sections, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. 1614—

By Legislative Educational Planning Committee

A CONCURRENT RESOLUTION concerning early childhood education programs; requesting the Governor to designate the State Board of Education as the lead agency to administer the Infants and Toddlers with Disabilities Program.

WHEREAS, the Governor is required by 20 U.S.C. 1435 to designate the lead agency responsible for the general administration and supervision of federally-funded programs and activities providing early intervention services for infants and toddlers with disabilities and their families; and

WHEREAS, The Kansas Department of Health and Environment currently is designated as the lead agency for the administration of the Infants and Toddlers with Disabilities Program; and

WHEREAS, The Legislative Educational Planning Committee and the 2010 Commission, pursuant to 2007 House Bill No. 2310, were mandated to study and make recommendations regarding the creation of a new office of early childhood education to provide for the most coordinated system for delivery of early educational services; and

WHEREAS, The 2010 Commission was mindful that the Constitution of the state of Kansas provides that the State Board of Education shall have general supervision of all the educational interests of the state; and

WHEREAS, The 2010 Commission conducted extensive hearings on early childhood programs provided, or administered, by the state of Kansas and school districts located within the state; and

WHEREAS, The 2010 Commission recommended that the State Board of Education be designated as the lead agency to administer the Infants and Toddlers with Disabilities Program and the Legislative Educational Planning Committee agreed with that recommendation; and

WHEREAS, The State Board of Education promotes school readiness and works to enhance the school success of young children through the work of the Early Learning Team within the Kansas Department of Education which currently coordinates programs that focus on child learning, family supports, professional development and technical assistance; and

WHEREAS, The Early Learning Team within the Kansas Department of Education defines early learning programs as those programs which promote child growth and development with the purpose of enhancing the skills, abilities and knowledge of young children that support their future success in school and in life, and support families by involving family and community members in learning opportunities; and

WHEREAS, The State Board of Education has adopted a plan for the coordination of early learning programs. The guiding principles of such plan are: Ensuring that parents have the right to choose an early learning program for their child; putting children and families first so that Kansas is the best state in which to raise a child; acknowledging the strong and direct connection between the early years and later success in school and life; providing guidance to local communities so that local decision-making can be informed and meet the needs of children and families; coordinating all early learning programs to ensure that all children are healthy and ready to learn when they enter school; and knowing that an essential component of a cohesive and comprehensive statewide system is the required collaboration among all state agencies and organizations; and

WHEREAS, The purpose of the plan for the coordination of early learning programs is to enhance the quality of early learning programs and promote the creation of a coordinated and comprehensive early childhood system. Under the plan, a coherent and cohesive system of delivery of services will increase opportunities for families to find high quality learning environments for their children and incorporate an appropriate accountability system to track successes, increase responsibility for resources used and ensure that the young children of Kansas enter school ready to learn; and

WHEREAS, The State Board of Education, through its Constitutional and statutory powers, currently has general supervision of the system which delivers special education services to children age three years and older, and by placing the administration of the Infants and Toddlers with Disabilities Program under the supervision and administration of the State Board of Education would promote a coordinated and comprehensive system for the delivery of early childhood education services and provide for a seamless transition for children and their families from birth through age 21: Now, therefore,

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:* That the Legislature of the state of Kansas requests Governor Sebelius to designate the State Board of Education as the lead agency for the administration of the Infants and Toddlers with Disabilities Program; and

*Be it further resolved:* That the Secretary of State is directed to send an enrolled copy of this resolution to Governor Sebelius.

SENATE CONCURRENT RESOLUTION No. 1615—

By Senators Morris, D. Schmidt and Hensley

A CONCURRENT RESOLUTION relating to a committee to inform the governor that the two houses of the legislature are duly organized and ready to receive communications.

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:* That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the governor, and inform the governor that the two houses of the legislature are duly organized and are ready to receive any communications the governor may have to present.

On emergency motion of Senator Derek Schmidt, **SCR 1615** was adopted by voice vote.

In compliance with **SCR 1615**, President Morris appointed Senator Wysong and Senator Kelly to notify the Governor that the Legislature is organized and ready to receive any communications the Governor may have to present.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

In accordance with Senate Rule 32, the following prefiled bills were referred as follows:

Education: **SB 399, SB 400, SB 401, SB 402, SB 404, SB 405, SB 408; SCR 1614.**

Federal and State Affairs: **SB 397.**

Financial Institutions & Insurance: **SB 398.**

Judiciary: **SB 409, SB 410, SB 411, SB 412, SB 413, SB 414.**

Public Health and Welfare: **SB 396.**

Ways and Means: **SB 403, SB 406, SB 407.**

#### MESSAGE FROM THE HOUSE

Announcing adoption of **HR 6001**, a resolution relating to the organization of the House of Representatives:

Be it resolved by the House of Representatives of the State of Kansas:

That the chief clerk of the House of Representatives notify the Senate that the House is organized with the following officers:

Melvin Neufeld, speaker,  
Donald Dahl, speaker pro tem,  
Ray Merrick, majority leader,  
Dennis McKinney, minority leader,  
Janet Jones, chief clerk,

Wayne Owen, sergeant at arms,  
and await the pleasure of the Senate

Announcing adoption of **HR 5026**, 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 Aurand and Schwartz to escort the Governor;

Representatives Humerickhouse and Shultz to escort the Lt. Governor;  
Representatives Owens and Horst to escort the Supreme Court;  
Representatives Sloan and Swenson to escort the Senators.

#### MESSAGE FROM THE HOUSE

Announcing adoption of **SCR 1615**, a concurrent resolution relating to a committee to inform the Governor that the two houses of the legislature are duly organized and ready to receive communications, and the appointment of Representatives Landwehr, Dahl and Williams as members of the committee to wait upon the Governor.

#### COMMUNICATIONS FROM STATE OFFICERS

January 14, 2008

The Honorable Stephen Morris  
President, Kansas State Senate  
State Capitol  
Topeka, KS 66612

Dear President Morris:

As provided in K.S.A. 75-105, I have received from the Honorable Kathleen Sebelius, Governor of the State of Kansas, since the adjournment of the 2007 session of the legislature the following communications:

Executive Directives Nos. 07-376, 07-377, 07-378, 07-379, 07-380, 07-381, 07-382, 07-383, 07-384, 07-385, and 07-386, all relating to Authorizing Personnel Transactions, Expenditure of Federal Funds, and Fund Transfers.

Also, Executive Order No. 2007-10, declaring a state of emergency for Kiowa County as a result of severe weather and suspending the provisions requiring the imposition of interest on the delinquent payment of 2006 second half real and personal property taxes that are on the tax books of the Kiowa County Treasurer for the duration of the state of emergency in Kiowa County.

Executive Order No. 2007-11, declaring a state of emergency for Kiowa, Barton, Stafford, Pratt, Edwards and Phillips counties as a result of severe weather and suspending the provision requiring an individual to be unemployed for a waiting period of one week before collecting unemployment benefits for individuals affected by the severe natural disaster.

Executive Order No. 2007-12, declaring a state of emergency for Kiowa, Barton, Stafford, Pratt, Edwards, Phillips, Ottawa, Cherokee, Clay, Dickinson, Doniphan, Douglas, Ellsworth, Geary, Harper, Jackson, Kingman, Leavenworth, Lincoln, Lyon, Nemaha, Neosho, Osage, Osborne, Pottawatomie, Reno, Rice, Riley, Saline, Shawnee, Wabaunsee, Washington, and Wyandotte counties as a result of severe weather and ordering the temporary suspension for 30 days of the following as they apply to motor vehicles used in the support efforts:

1. The fees associated with over-dimension/overweight permits for participating carriers who transport these loads.
2. Requirements for registration and fuel tax reporting as required by the Kansas Department of Revenue.
3. Requirements for licensing/operating authority as required by the Kansas Corporation Commission; and
4. Requirements contained in the Federal Motor Carrier Safety Regulations, CFR 49, Parts 390-399 under the authority of CFR 49, Part 390.23. All other regulations in CFR 49 shall apply.

Executive Order No. 2007-13, rescinding all county drought stage declarations in Executive Order 2007-04 issued March 6, 2007.

Executive Order No. 2007-14, declaring a state of emergency for Kiowa, Barton, Stafford, Pratt, Edwards and Phillips counties as a result of severe weather that destroyed many businesses and suspending the following provisions:

1. K.S.A. 44-710(c)(1) requiring the charging of employer accounts for unemployment insurance benefits paid as a result of the disaster;
2. K.S.A. 44-717 requiring the imposition of interest and penalties for failing to file wage reports or make contribution payments under the Employment Security Law for the second and third quarters of 2007; and
3. K.S.A. 44-926 requiring the payment of fees for the inspection of newly installed or replacement boilers or pressure vessels.

Executive Order No. 2007-15 offering a reward of five thousand dollars (\$5,000) for information leading to the arrest and conviction of the individual or individuals who committed the homicide of Gina Cyphers.

Executive Order No. 2007-16 reformulating the composition of the Kansas Energy Council.

Executive Order No. 2007-17 continuing the temporary suspension of the state of emergency declared in Executive Order 2007-09 for thirty days.

Executive Order No. 2007-18 declaring a state of emergency for Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Elk, Franklin, Linn, Miami, Montgomery, Neosho, Osage, Wilson and Woodson counties as a result of severe weather and ordering the temporary suspension of the following as they apply to motor vehicles used in the support efforts:

1. The fees associated with over-dimension/overweight permits for participating carriers who transport these loads.
2. Requirements for registration and fuel tax reporting as required by the Kansas Department of Revenue.
3. Requirements for licensing/operating authority as required by the Kansas Corporation Commission; and
4. Requirements contained in the Federal Motor Carrier Safety Regulations, CFR 49, Parts 390-399 under the authority of CFR 49, Part 390.23.

Executive Order No. 2007-19 declaring it necessary to assist and expedite all efforts of restoration of fuel services in order to avoid interruption in harvest activities and order the temporary suspension of the following as it applies to motor vehicles used in the support efforts:

1. The requirements contained in the Federal Motor Carrier Safety Regulations, CFR 49, Parts 390-399 under the authority of CFR 49, Part 390.23. This exemption applies only to those motor carriers providing direct assistance to the emergency fuel relief effort. No motor carrier operating under the terms of this order shall require or permit a fatigued or ill driver to operate a commercial motor vehicle.

Sincerely,

Pat Saville  
Secretary of the Senate

January 14, 2008

The Honorable Stephen Morris  
President, Kansas State Senate  
State Capitol  
Topeka, KS 66612

Dear President Morris:

This letter is to advise you that the Office of the Secretary of the Senate has received the following communications during the interim since adjournment of the 2007 Regular Session of the Legislature:

Attorney General submitted the 2006 Annual Report of the Consumer Protection/Antitrust Divisions of the Attorney General's Office.

Governor's Grants Program submitted the Wireless Enhanced 911 Annual Report.

Kansas Bureau of Investigation submitted, in compliance with K.S.A. 60-4117, a report regarding the status of the KBI State Forfeiture Fund.

Kansas Highway Patrol submitted, in compliance with K.S.A. 60-4117, the report regarding state forfeiture of funds.

Pooled Money Investment Board submitted, in compliance with K.S.A. 75-4222(h), the Annual Report of the Pooled Money Investment Board for Fiscal Year 2007.

Kansas Public Employees Retirement System submitted the Annual Report of the Kansas Public Employees Retirement System for the fiscal year ending June 30, 2007.

Kansas Water Office submitted the Kansas Water Authority's 2008 Annual Report.

Securities Commissioner submitted a report on the Investor Education Program as required under the Kansas Uniform Securities Act and former Kansas Securities Act.

State of Montana, Office of the Secretary of State, submitted a copy of House Joint Resolution No. 38, stating findings of the Legislature; repealing, rescinding, cancelling, voiding, and superseding any and all extant application by the Legislature of the State of Montana previously made during any legislative session to the Congress of the United States of America to call a convention pursuant to the terms of Article V of the United States Constitution for proposing one or more amendments to the Constitution; urging the legislatures of the other states to do the same; and directing copies of this resolution be sent to specified persons.

University of Kansas Hospital submitted, in compliance with K.S.A. 76-3312(p), the Annual Report for FY 2007 and a copy of two reports by the Legislative Division of Post Audit.

Sincerely,

Pat Saville

Secretary of the Senate

These communications are on file in the office of the Secretary of the Senate and are available for review at any time by members of the legislature.

#### **INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HCR 5026**, a concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Governor.

On emergency motion of Senator D. Schmidt, **HCR 5025** was adopted by voice vote.

In compliance with **HCR 5025**, the President appointed Senator Pine and Senator Haley to escort the Governor; Senator V. Schmidt and Senator Lee to escort the Lt. Governor; and Senator Petersen and Senator Gilstrap to escort the Supreme Court.

The President announced the Senate would recess until 6:15 p.m. for the purpose of a joint meeting with the House of Representatives to hear the State of State Address by Governor Sebelius.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m. Tuesday, January 15, 2008.

HELEN MORELAND, CHARLENE BAILEY, PAT MATZEK, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

