

# Journal of the Senate

TWENTY-SECOND DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, February 11, 2009—4:00 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. Leon Parker, First Baptist Church of Lyndon, who delivered the invocation:

Almighty God,

It is my prayer to you today that each member of this decision making body will recognize your presence in this place.

When there are issues to be determined and decided and the lines are unclear, I pray that your wisdom will be searched out and that you will make your desire and will very plain to those who seek it.

We are thankful for the men and women who serve us in this state where so many frustrating issues regularly come before them. As we thank them for their leadership and commitment, we thank you for your guidance. May they not lean to their own understanding but to your might and leadership to them. Lead our leaders through the fields of uncertainty and difficulty to places of greater understanding and peace of mind in their decisions.

Please hear our prayer and be gracious to our plea. We serve in each of our positions to bring honor and glory to your name. May we know how best to do that.

It is in the name of Jesus Christ that I pray. Amen

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

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

**SB 259**, An act concerning retirement and pensions; relating to the Kansas public employees retirement system; state and school employer contributions; amending K.S.A. 2008 Supp. 74-4920 and repealing the existing section, by Committee on Ways and Means.

**SB 260**, An act concerning insurance; relating to the recovery of economic or noneconomic loss sustained as a result of an accident while operating an uninsured motor vehicle, by Committee on Ways and Means.

**SB 261**, An act concerning certain elections; enacting the interstate compact on the agreement among the states to elect the president by national popular vote act, by Committee on Ways and Means.

**SB 262**, An act concerning emergency medical services; scope of practice of certain attendants; titles of certain attendants; amending K.S.A. 19-4608, 21-2511, 44-1204, 65-6121, 65-6129c, 65-6135, 65-6144, 65-6145 and 66-1810 and K.S.A. 2008 Supp. 8-1001, 65-6001, 65-6112, 65-6119, 65-6120, 65-6124, 65-6129, 75-4364 and 80-2518 and repealing the existing sections, by Committee on Ways and Means.

**SB 263**, An act relating to insurance; concerning the mandatory reinstatement of certain insurance policies in case of mental incapacity of an insured, by Committee on Federal and State Affairs.

## SENATE CONCURRENT RESOLUTION No. 1609—

By Senator Pilcher-Cook

A CONCURRENT RESOLUTION claiming sovereignty under the Tenth Amendment to the Constitution of the United States over certain powers; serving notice to the federal government to cease and desist certain mandates; providing that certain federal legislation be prohibited or repealed; and directing distribution.

WHEREAS, The Tenth Amendment to the Constitution of the United States reads as follows:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”; and

WHEREAS, The Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

WHEREAS, The scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

WHEREAS, Today, in 2009, the states are demonstrably treated as agents of the federal government; and

WHEREAS, Many federal laws are directly in violation of the Tenth Amendment to the Constitution of the United States; and

WHEREAS, The Tenth Amendment assures that we, the people of the United States of America and each sovereign state in the Union of States, now have, and have always had, rights the federal government may not usurp; and

WHEREAS, Article IV, Section 4 says, “The United States shall guarantee to every State in this Union a Republican Form of Government”, and the Ninth Amendment states that “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people”; and

WHEREAS, The United States Supreme Court has ruled in *New York v. United States*, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, A number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the Constitution of the United States.

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:* That the State of Kansas hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States;

*Be it further resolved:* That this serve as Notice and Demand to the federal government, as out agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers;

*Be it further resolved:* That all compulsory federal legislation which directs states to comply under threat of civil or criminal penalties or sanctions or requires states to pass legislation or lose federal funding be prohibited or repealed; and

*Be it further resolved:* That a copy of this resolution be distributed to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Speaker of the House and the President of the Senate of each state’s legislature of the United States of America, and each member of the Kansas Congressional Delegation.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

he following bills were referred to Committees as indicated:

Agriculture: **SB 256.**

Commerce: **SB 258.**

Local Government: **SB 257.**

**COMMUNICATIONS FROM STATE OFFICERS****KANSAS HEALTH POLICY AUTHORITY**

February 9, 2009

In compliance with KSA 75-6509, Doug Farmer, Director, State Employee Health Plan, submitted a compact disc (cd) containing the Kansas State Employees Health Care Annual Report.

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**

The House adopts the conference committee report on **SCR 1601**.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

**SENATE RESOLUTION No. 1816—**

A RESOLUTION congratulating the Butler Community College football team.

WHEREAS, Butler Community College's football team won the Top of the Mountains Bowl en route to claiming the 2008 National Junior College Athletic Association national championship; and

WHEREAS, This national championship was the Butler Grizzlies sixth NJCAA national championship and third within the last six years; and

WHEREAS, The 2008 championship was the Grizzlies second national championship in a row, making them the first team in NJCAA history to twice repeat as national champions; and

WHEREAS, Butler head coach Troy Morrell has compiled a 95-11 overall record in nine seasons, including three national titles and eight conference titles; and

WHEREAS, The Grizzlies were led offensively by Randell Bell, who ran 22 times for 87 yards and two touchdowns and was named the game's offensive MVP; and

WHEREAS, Zac Clark who led the Grizzlies with four tackles and two sacks while applying constant pressure on the quarterback, was named the defensive MVP; and

WHEREAS, The team members on offense are quarterbacks Chance Riley and Press Taylor; running backs Randell Bell, Tony Williams, Tywon Hubbard, Delando Henderson, Ricky Jacques, Ricardo Wallen and Lucas Hamm; fullback Taylor Beitler; wide receivers Faron Homes, Arrison Davis, Edgard Theliar, Jonathan Owens and Tyrece Gaines; offensive linemen Sheldon Barnhardt, Erik Dahl, Ben Blankenship, Chad Modlin, Ty Henry, Matt Bruner, Robert Shapel, Austen Hybsha, DeShawn Smith and Swede Johnson; tight ends Alex Estes, Jordan Voelkar and Nate Larkins; long snapper Eric Hill; punter Zac Stetler; and kicker Logan Ortiz; and

WHEREAS, The team members on defense are defensive linemen Jonathan Massaquoi, Zac Clark, Donald Sanky, Seth Beard, Jeffery Thompson, Garrett Jacobsen and Malcom Sharp; linebackers Jarrett Wright, Deandre Howard, Forlando Johnson and Demonte Hill; and defensive backs LeRoy Smith, Rudell Crim, Brad Briggs, Felix Snipes, Harrison Dreiling, Jared Milo, DeLeon McCord, T.J. Shine, Ryan Downing, Laron Scott and Jovanta Boyd; and

WHEREAS, Butler's coaches Troy Morrell, Steve Braet, Aaron Flores, Tim Schaffner, Chris Jones, Matt Mattox, Paige Anders, John Coslett, Chad Knitter and Darrin SanRomani have provided excellent guidance and leadership in developing this national championship team; and

WHEREAS, The help provided by: student assistants Doug Decoursey and Jarvis Love; team managers Zach Laffery, Steven Adams, Curtis Myers, Josh Huggins, Matt Brown and Nick Montgomery; athletic director Todd Carter and assistant athletic director Matt Jacobs; and head trainer Morgan Sommers was instrumental in the team's success: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate the Butler Community College football team for winning consecutive NJCAA national championships and instilling a tradition of excellence at Butler; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide seventy-five enrolled copies of this resolution to Senator Masterson for presentation to the team.

On emergency motion of Senator Masterson **SR 1816** was adopted unanimously.

#### REPORT ON ENGROSSED BILLS

**SB 91, SB 73, SB 26** reported correctly engrossed February 11, 2009.

#### REPORT ON ENROLLED BILLS

**SCR 1606** reported correctly enrolled, properly signed and presented to the Secretary of State on February 11, 2009.

#### REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 98** be passed.

Also, **SCR 1602** be adopted.

**HB 2026**, as amended by House Committee of the Whole, be passed.

Committee on **Ethics and Election** recommends **SB 118** be passed.

Also, **SB 56** be amended on page 3, in line 2, before the comma by inserting “on the ballot envelope”; in line 4, after “statement” by inserting “at the time the ballot is taken from the voter and which statement appears on the ballot envelope”; and the bill be passed as amended.

**SB 71** be amended on page 2, in line 2, by striking “account of” and inserting “statement accounting for”; in line 6, by striking “a” and inserting “: (1) A”; in line 13, by striking the period and inserting “; and

(2) a statement of all its receipts and expenditures, showing in detail from whom such moneys, property or other thing of value of \$300 or more were received, and to whom such moneys or property or other thing of value were paid, for what specific purposes each payment was made, and the exact nature of the service rendered in consideration thereof on or before the second day preceding the election for the period beginning 11 days before the election and ending three days before the election.”; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 139** 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 **Judiciary** recommends **SB 135, SB 156** be passed, and because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

Also, **SB 95** be amended on page 1, in line 28, by striking all after the period; by striking all in line 29; in line 34, by striking all after the period; by striking all in line 35; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 187** be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, February 12, 2009.

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

PAT SAVILLE, *Secretary of the Senate.*

