

Journal of the Senate

THIRTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 26, 2009—2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

I hear some people say that they don't understand the Bible. It's true that some portions of scripture are not as plain-spoken as others. But I would like to thank You, O God, for instructions that any adult and most children can understand. The book of James is one of those:

Everyone should be quick to listen, slow to speak and slow to become angry.
James 1:19b

Religion that God our Father accepts as pure and faultless is this: to look after orphans and widows in their distress and to keep oneself from being polluted by the world. James 1:27

As the body without the spirit is dead, so faith without deeds is dead. James 2:26

Out of the same mouth come praise and cursing. My brothers, this should not be. James 3:10

When you ask, you do not receive, because you ask with wrong motives, that you may spend what you get on your own pleasures. James 4:3

Resist the devil and he will flee from you. Come near to God and He will come near to you. James 4:7b-8a

Anyone, then, who knows the good he ought to do and doesn't do it, sins. James 4:17.

These are just a few of the examples of how You speak clearly to our needs, O God. Help us all to pay attention!

I pray in the Name of Jesus Christ,

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 291, An act concerning apportionment; relating to the redistricting process for re-apportioning congressional and state legislative districts, by Committee on Federal and State Affairs.

SB 292, An act concerning civil procedure; relating to remote claim liens on commercial property; amending K.S.A. 60-1103, 60-1110 and 60-1111 and repealing the existing sections, by Committee on Ways and Means.

SB 293, An act concerning traffic regulation; relating to all-terrain vehicles; definitions; amending K.S.A. 2008 Supp. 8-1402a and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Education: **SB 290**.

Financial Institutions & Insurance: **SB 288**.

Judiciary: **SB 289**.

Natural Resources: **SB 286**, **SB 287**; **SCR 1610**.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 74, An act concerning the cash-basis law; relating to exceptions thereto; amending K.S.A. 2008 Supp. 10-1116a and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pyle.

The bill passed.

SB 107, An act concerning bingo games; relating to operation thereof and prizes awarded; amending K.S.A. 2008 Supp. 79-4701, 79-4706 and 79-4717 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 10, Nays 29, Present and Passing 1, Absent or Not Voting 0.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Kultala, Masterson, Pilcher-Cook, Steineger, Wysong.

Nays: Abrams, Apple, Barnett, Brownlee, Bruce, Colyer, Donovan, Hensley, Holland, Huelskamp, Kelly, Kelsey, Lee, Lynn, Marshall, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Present and Passing: Wagle.

A constitutional majority having failed to vote in favor of the bill, **SB 107** did not pass.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "no" on **SB 107** because this bill will harm and, in some cases irreparably harm, the financial viability of local veterans service organizations.

The bill creates ambiguity and a potential loophole in the law that would allow bingo to be played seven days a week.

Out of respect for those American men and women who laid their lives on the line, and in some cases, gave their extreme sacrifice to our country, I vote no. — JIM BARNETT

SB 115, An act relating to fire departments; concerning certain powers; amending K.S.A. 31-145 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, 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, Wagle, Wysong.

The bill passed.

SB 178, An act concerning amusement rides; amending K.S.A. 2008 Supp. 44-1601 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, 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, Wagle, Wysong.

The bill passed, as amended.

SB 215, An act concerning certain boards, commissions and officers; relating to the appointment thereof; amending K.S.A. 2008 Supp. 75-712 and 75-4315d 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, 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, Wagle, Wysong.

The bill passed.

SB 225, An act concerning the low-income family postsecondary savings accounts incentive program; amending K.S.A. 2008 Supp. 75-650 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: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, 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, Wagle, Wysong.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote AYE. The creation of Individual Development Accounts (I.D.A.'s) or Family Development Accounts (F.D.A.'s) was a hard fought Legislative victory which has enabled average and low income Kansans to save for their first home or small business or higher education with matching dollar benefits. I am proud of **SB 225** and this Senate's endorsement of a personal advocacy that I have led and hold dear.— DAVID HALEY

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1832—

A RESOLUTION congratulating

the Pittsburg State University head football coach Chuck Broyles.

WHEREAS, The Liberty Mutual Football Coach of the Year award honors coaches who best exemplify excellence in coaching based on their on-field coaching results, sportsmanship and integrity, the academic excellence of their student-athletes and their community commitment; and

WHEREAS, Coach Broyles, who also serves as director of intercollegiate athletics, recently completed his 19th season as head football coach, guiding the Pittsburg State Gorillas to an 11-2 overall record and a 15th appearance in the NCAA Division II national playoffs in 2008; and

WHEREAS, During his successful tenure as Pitt State head football coach, Coach Broyles has achieved a 193-41-2 overall record, averaging more than 10 wins per season; and

WHEREAS, In 1999, Coach Broyles became the first coach since the 1890's to record his 100th coaching victory in fewer than 10 full seasons; and

WHEREAS, Coach Broyles led the Gorillas to the 1991 NCAA Division II National Championship, as well as appearances in the 1992, 1995 and 2004 NCAA Division II National Championship games; and

WHEREAS, Coach Broyles' unfailing coaching excellence is further demonstrated by the fact that the Gorillas have qualified for the NCAA Division II playoffs 15 times during his 19-year tenure; and

WHEREAS, Coach Broyles' sterling leadership continues in the classroom, where he has coached 15 ESPN The Magazine Academic All-Americans since January 2000, leading all schools in Division II and second among all national college football programs; and

WHEREAS, Coach Broyles' charitable contributions have been numerous and wide-ranging, including his significant support for memorial scholarships in the names of his late son Kyle and former Pitt State Gorillas athletic director Tommy Riggs; his organization of the Gorillas' annual YMCA Youth Football Day; his coordination of team involvement in Project Franklin to restore the nearby tornado ravaged community; the annual campus "Big Event" town spring clean-up project; and facilitating his team's visits to local elementary schools to read with students; and

WHEREAS, Coach Broyles exemplifies the characteristics of a coach whose leadership not only makes great football players, but also makes great citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate Coach Chuck Broyles for winning the 2008 NCAA Division II Liberty Mutual Football Coach of the Year award and that we wish him continued success in the future; and

Be it further resolved: That the Secretary of the Senate is directed to provide an enrolled copy of this resolution to Senator Marshall for presentation to Coach Chuck Broyles and two additional copies to be mailed to the Pittsburg State University President's office, 207 Russ Hall, Pittsburg State University, Pittsburg, KS, 66762.

On emergency motion of Senator Marshall **SR 1832** was adopted unanimously.

Senator Marshall introduced Coach Broyles and Senators joined him in honoring the coach with a standing ovation.

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

SENATE RESOLUTION No. 1833—

A RESOLUTION congratulating Pittsburg State University assistant head football coach and offensive coordinator Tim Beck.

WHEREAS, Offensive coordinator Tim Beck of the Pittsburg State Gorillas football team was nominated by his peers for the 2008 FootballScoop.com NCAA Division II Coordinator of the Year award and selected by a panel of former coaches and players as the coordinator of the year; and

WHEREAS, Coach Beck has served as offensive coordinator at his alma mater for 15 seasons, dating back to 1994; and

WHEREAS, Over the last five seasons, the Gorillas' option offense run by Coach Beck has scored 2,902 points (44.6 points per game) and compiled 32,559 total yards of offense (500.9 yards per game), ranking the Gorillas either number one or two nationally in both scoring and total offense in three of the last five seasons; and

WHEREAS, In 2004, Coach Beck's offense staked its claim as the most prolific in the history of NCAA football, leading Division II in scoring with 55.8 points per game, rushing with 354.7 yards per game, total yards of offense with 598.4 yards per game and breaking the 118 year-old all-time NCAA single-season scoring record with 837 points, shattering the old mark of 765 points set by Harvard in 1886; and

WHEREAS, During the 2008 season, Coach Beck led the Gorillas offense to an average of 35.5 points per game and 432.7 yards of total offense per game, en route to an 11-2 record and the second round of the NCAA Division II playoffs: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate Coach Tim Beck for winning the 2008 FootballScoop.com NCAA Division II Coordinator of the Year award, that we commend him for helping to craft yet another winning season and that we wish him continued success in the future; and

Be it further resolved: That the Secretary of the Senate is directed to provide an enrolled copy of this resolution to Senator Marshall for presentation to Coach Tim Beck and two

additional copies to be mailed to the Pittsburg State University President's office, 207 Russ Hall, Pittsburg State University, Pittsburg, KS, 66762.

On emergency motion of Senator Marshall **SR 1833** was adopted unanimously.

Senators recognized Coach Beck with a standing ovation. Also introduced and honored was Dr. Tom Bryant, President of Pittsburg State University.

REPORT ON ENGROSSED BILLS

SB 107, SB 178, SB 225 reported correctly engrossed February 26, 2009.

REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** recommends **SB 174** be passed.

Also, **SB 49** 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 **Public Health and Welfare** recommends **SB 147** be amended on page 1, in line 16, by striking "at the obstetric panel administered"; in line 17, by striking all following "infection"; in line 18, by striking all preceding the period; in line 21, following the period by inserting "When a pregnant woman's HIV status is unknown for any reason at the time of labor and delivery, such woman shall be screened for HIV infection as soon as possible within medical standards. A pregnant woman shall have the right to refuse such screening at any time."; in line 32, preceding the period by inserting ", except that this subsection shall not apply to any newborn child whose parents object to the test as being in conflict with their religious tenets and practices"; in line 35, preceding "establishing" by inserting ", within a year from the effective date of this act."; in line 36, by striking "all"; also in line 36, by striking "in Kansas"; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 8:00 a.m., Friday, February 27, 2009.

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

PAT SAVILLE, *Secretary of the Senate.*

