

Journal of the House

FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, January 11, 2010, 2:00 p.m.

This being the day fixed by the Constitution of the State of Kansas for the assembling of the 2010 session of the legislature, the House of Representatives was called to order at 2:00 p.m. by Speaker Michael R. "Mike" O'Neal.

Speaker O'Neal announced that the Rev. Eunice Brubaker, executive associate pastor, Fairlawn Church of the Nazarene, will serve as Chaplain of the House for the 2010 session.

Prayer by guest chaplain, the Rev. Steve Vaughn, senior pastor, Fairlawn Church of the Nazarene, Topeka:

Dear Heavenly Father,

May we as the men and women of this legislature bow to acknowledge our dependence upon the power of God, and to confess with assured hope that God will lead us to the truth, announced in Holy Scripture, and proven by all history, that those nations that are blessed are those whose God is the Lord.

We have been the recipients of the choicest prosperity of Heaven; we have grown in numbers, wealth and power as no other nation has ever grown. But we have forgotten God. We have forgotten the gracious hand which has preserved us in peace and multiplied and enriched and strengthened us as a nation.

Intoxicated with success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us. It would be fitting for us, then, to humble ourselves before offended power, to confess our dependency upon him and to pray for his clarity and direction in these days of difficult decisions and agendas.

Lord, this day may you grant a supreme wisdom to those who shadow these halls and offices. May you restore dignity, honor, trustworthiness, and righteousness to the office they hold by their actions to honor you. Grant them this day a gracious gift of grace and guidance as they make motions and laws to once again restore this state to a place of prominence within this time we live for your sake.

Also, please keep Reps. Donohoe, Schroeder and Schwab in your care. In Christ's Name I ask. Amen.

The Pledge of Allegiance was led by Rep. Tafanelli.

COMMUNICATIONS FROM STATE OFFICERS

To all to whom these presents shall come, Greetings:

I, RON THORNBURGH, Secretary of the State of Kansas, do hereby certify that Don Svaty, Ellsworth, Kansas, was appointed by the Governor effective August 5, 2009, for the unexpired term of State Representative for the 108th Legislative District, to fill the vacancy created by the resignation of Joshua Svaty.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed my official seal.
Done at the City of Topeka, this 5th day of January, A.D. 2010.

RON THORNBURGH
Secretary of State

COMMUNICATIONS FROM STATE OFFICERS

To all to whom these presents shall come, Greetings:

I, RON THORNBURGH, Secretary of the State of Kansas, do hereby certify that Melany Barnes, Wichita, Kansas, was appointed by the Governor effective October 14, 2009, for the unexpired term of State Representative for the 95th Legislative District, to fill the vacancy created by the resignation of Tom Sawyer.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed my official seal.
Done at the City of Topeka, this 5th day of January, A.D. 2010.

RON THORNBURGH
Secretary of State

COMMUNICATIONS FROM STATE OFFICERS

To all to whom these presents shall come, Greetings:

I, RON THORNBURGH, Secretary of the State of Kansas, do hereby certify that Gene M. Suellentrop, Wichita, Kansas, was appointed by the Governor effective December 14, 2009, for the unexpired term of State Representative for the 105th Legislative District, to fill the vacancy created by the resignation of Jason Watkins.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed my official seal.
Done at the City of Topeka, this 5th day of January, A.D. 2010.

RON THORNBURGH
Secretary of State

COMMUNICATIONS FROM STATE OFFICERS

To all to whom these presents shall come, Greetings:

I, RON THORNBURGH, Secretary of the State of Kansas, do hereby certify that Barbara Bollier, Mission Hills, Kansas, was appointed by the Governor effective January 11, 2010, for the unexpired term of State Representative for the 25th Legislative District, to fill the vacancy created by the resignation of Terrie Huntington.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed my official seal.
Done at the City of Topeka, this 11th day of January, A.D. 2010.

RON THORNBURGH
Secretary of State

OATH OF OFFICE

Representative-elect Barbara Bollier came forward and took and subscribed to the following oath of office, which was administered by Secretary of State Ron Thornburgh.

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Kansas, and faithfully discharge the duties of the office of representative of the House of Representatives, so help me God.

Subscribed and sworn to before me this 11th day of January, 2010.

RON THORNBURGH
Secretary of State

Reps. Don Svaty, Barnes, Suellentrop and Bollier were welcomed by Speaker O'Neal and the members of the House with an ovation.

The roll was called with 120 members present.

Rep. Donohoe was excused on verified illness.

Reps. Kelley, Peterson, Schroeder and Schwab were excused on excused absence by the Speaker.

COMMUNICATIONS FROM STATE OFFICERS

Dear Mr. Speaker:

This letter is to advise you that the Office of Chief Clerk has received the following communications during the interim since adjournment of the 2008 Regular Session of the Legislature:

From Duncan Friend, Chairman, and Martha Gabehart, Vice-Chairman, Kansas Partnership for Accessible Technology, the 2008 Annual Report of the Kansas Partnership for Accessible Technology. It is also accessible at: <http://da.ks.gov/kpat/>.

From Bob Page, President and Chief Executive Officer, The University of Kansas Hospital, in accordance with KSA 76-3312(p), the 2009 Annual Report.

From Stephen R. Weatherford, President, Kansas Development Finance Authority, the 2009 Annual Report.

From Elizabeth B.A. Miller, Director of Investments, Kansas Pooled Money Investment Board, in accordance with KSA 75-4222(h), the 2009 Annual Report.

From Glenn Deck, Executive Director, Kansas Public Employees Retirement System, the Annual Report, accessible at <http://www.kpers.org/annualreport2009.pdf>.

From Steve Six, Attorney General, in accordance with KSA 50-628, the 2008 Annual Report of the Consumer Protection Division.

From Dennis McKinney, State Treasurer, the 2009 Annual Report for the Kansas State Treasurer's Office.

From Robert E. Blecha, Director, Kansas Bureau of Investigation, in accordance with KSA 60-4117, the status report of the KBI State Forfeiture Fund.

From Roderick L. Bremby, Secretary, Kansas Department of Health and Environment, in accordance with KSA 65-5001, the findings and recommendations on the Kansas Association of Addiction Counselor's application seeking credentialing of addiction counselors.

From Roger Werholtz, Secretary, Kansas Department of Corrections, in accordance with KSA 75-52,112, the Annual Report of the Kansas Community Corrections Statewide Risk Reduction Initiative.

From Steve Six, Attorney General, in accordance with KSA 75-7c16(b), the statistical report regarding concealed carry licenses issued, revoked, suspended and denied.

From the Office of Governor Mark Parkinson:

Executive Directive No. 09-398, Authorizing Personnel Transactions.

Executive Directive No. 09-399, Authorizing a Fund Transfer.

Executive Directive No. 09-400, Authorizing Expenditure of Federal Funds and Authorizing Fund Transfers.

Executive Directive No. 10-401, Authorizing Expenditure of Federal Funds.

Executive Directive No. 10-402, Authorizing Expenditure of Federal Funds.

Executive Directive No. 10-403, Authorizing Expenditure of Federal Funds.

Executive Directive No. 10-404, Authorizing Expenditure of Federal Funds.

Also, from J. Michael Hayden, Secretary, Kansas Department of Wildlife and Parks, in accordance with K.S.A. 32-844 and 32-845, report regarding land acquisition and renewals.

From Thomas A. Day, Legislative Liaison, Kansas Corporation Commission, Conservation Division, Abandoned Oil & Gas Well/Remediation Site Status Reports, January 11, 2010.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Merrick, **HR 6001**, by Reps. O'Neal and Davis, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 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:

- Michael O’Neal, speaker,
- Arlen Siegfroid, speaker pro tem,
- Ray Merrick, majority leader,
- Paul Davis, minority leader,
- Susan Kannarr, chief clerk,
- Wayne Owen, sergeant at arms,

and awaits the pleasure of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Merrick, **HR 6002**, by Reps. O’Neal and Davis, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6002—

A RESOLUTION relating to assignment of seats of the House of Representatives.

Be it resolved by the House of Representatives of the State of Kansas: That the members of the 2010 regular session shall occupy the same seats assigned pursuant to 2009 House Resolution No. 6014 with the following exceptions: Aurand, seat No. 25; Barnes, seat No. 75; Suellentrop, seat No. 46; D. Svaty, seat No. 54; Trimmer, seat No. 14; Whitham, seat No. 8; Bollier, seat No. 79.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolutions were introduced and read by title:

HOUSE RESOLUTION No. 6003—

By Representatives O’Neal and Davis

A RESOLUTION relating to committees of the House of Representatives; amending rules 1101 and 1105.

Be it resolved by the House of Representatives of the State of Kansas: That rule 1101 of the House of Representatives be amended to read as follows:

Rule 1101. Standing Committees; Names and Members. (a) The standing committees of the House shall be the following and have the number of members indicated for each:

1. Aging and Long-term Care	13
2. Agriculture and Natural Resources	19
3. Appropriations	23
4. Calendar and Printing	7
5. Commerce and Labor	19 21
6. Corrections and Juvenile Justice	11 13
7. Economic Development and Tourism	13
8. Education	19 21
9. Elections	11
10. Energy and Utilities	21
11. Federal and State Affairs	21 23
12. Financial Institutions	13
13. Government Efficiency and Fiscal Oversight	15 13
14. Health and Human Services	19 23
15. Higher Education	11
16. 15. Insurance	13
17. 16. Interstate Cooperation	7
18. 17. Judiciary	19

~~19~~: 18. Local Government 11
~~20~~: 19. Rules and Journal 5
~~21~~: 20. Taxation 23
~~22~~: 21. Transportation ~~19~~ 21
~~23~~: 22. Veterans, Military and Homeland Security 15
~~24~~: 23. Vision 2020 15

(b) The house standing committee on economic development and tourism shall constitute the successor committee to the house standing committee on tourism and the house standing committee on tourism and parks for purposes of references in statutory or other documents. The house standing committee on economic development and tourism shall constitute the successor committee to the house standing committee on economic development and the house standing committee on new economy for purposes of references in statutory or other documents. The house standing committee on agriculture and natural resources shall constitute the successor committee to the house standing committee on environment for purposes of references in statutory or other documents. The house standing committee on insurance and the house standing committee on financial institutions shall constitute the successor committees to the house standing committee on insurance and financial institutions for purposes of references in statutory or other documents.

Be it further resolved: That rule 1105 of the House of Representatives be amended to read as follows:

Rule 1105. Budget Committees. (a) There is hereby created the following budget committees of the committee on appropriations which shall have the number of members indicated for each:

- 1. Agriculture and natural resources budget committee 9 8
- 2. Education budget committee 8
- 3. General government budget committee 9 8
- 4. Legislative budget committee 8
- 5. Social services budget committee 8
- 6. Transportation and public safety budget committee 8

(b) Members of the budget committees are not required to be members of the committee on appropriations. The Speaker shall designate the number of members of each budget committee who are not members of the committee on appropriations and shall appoint the members of each budget committee who are not members of the committee on appropriations. The chairperson of the committee on appropriations shall appoint the members of each budget committee who are members of the committee on appropriations. The Speaker shall appoint the chairperson and vice chairperson of each budget committee. The Speaker may remove or replace at any time any budget committee chairperson, vice chairperson or any member of such committee appointed by the Speaker.

(c) Budget committees shall be advisory to and make recommendations to the committee on appropriations. Budget committees are authorized to introduce bills or resolutions, except that budget committees are not authorized to introduce bills containing one or more items of appropriation. Except as otherwise provided in this rule, budget committees shall be deemed to be standing committees under the rules of the House of Representatives.

(d) Budget committee meetings are subject to the Kansas open meetings act, K.S.A. 75-4317a et seq., and amendments thereto.

HOUSE RESOLUTION No. 6004—

By Representative Mah

A RESOLUTION congratulating and commending Shawnee Heights math teacher Bradley Nicks for being honored as a Milken Family Foundation National Educator. WHEREAS, Bradley Nicks has been a devoted teacher of mathematics, head coach of the track team, and assistant coach to both the varsity and junior varsity football teams; and WHEREAS, Mr. Nicks has been an extremely popular and influential teacher to the students of Shawnee Heights High School for the past ten years; and WHEREAS, The Milken Educator award is a highly prestigious distinction that has been likened to “the Oscars of teaching”; and

WHEREAS, Mr. Nicks is the only Kansas educator in 2009 to win the award, and one of 57 Kansas teachers who have received the award since 2002; and

WHEREAS, Mr. Nicks is a brilliant example of the excellent caliber of teachers that lend their talent and passion to the Kansas public education system; and

WHEREAS, Excellent teachers like Mr. Nicks are needed to ensure that the youth of Kansas continue to reach their full potential and become the leaders of their generations; and

WHEREAS, Mr. Nicks will receive a cash award of \$25,000 and an all-expense paid trip to Los Angeles to participate in the annual Milken Education Forum: Now, therefore,

Be it resolved by the House of Representatives of the state of Kansas: That we congratulate and commend Bradley Nicks for being named a Milken Family National Educator, and applaud his continued dedication to the students of Shawnee Heights High School; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to provide three enrolled copies of this resolution to Representative Mah.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following prefiled bills and concurrent resolutions were introduced and read by title:

HB 2408, An act concerning information technology; requiring state agencies to perform periodic reviews of network security, by Joint Committee on Information Technology.

HB 2409, An act concerning school districts; relating to special education; amending K.S.A. 72-983 and repealing the existing section, by Legislative Post Audit Committee.

HB 2410, An act concerning school districts; relating to school finance; relating to at-risk pupils, by Legislative Post Audit Committee.

HB 2411, An act concerning controlled substances; relating to certain synthetic cannabinoids; amending K.S.A. 2009 Supp. 65-4105 and repealing the existing section, by Representative Olson.

HB 2412, An act concerning crimes, criminal procedure and punishment; relating to persons in the custody of the secretary of corrections; early release of the functionally incapacitated; early release of persons with terminal medical conditions; amending K.S.A. 22-3728 and repealing the existing section, by Joint Committee on Corrections and Juvenile Justice Oversight.

HB 2413, An act relating to the disposition of district court fines, penalties and forfeitures and the funding of the alcohol and drug abuse treatment fund; amending K.S.A. 2009 Supp. 74-7336 and repealing the existing section, by Joint Committee on Corrections and Juvenile Justice Oversight.

HB 2414, An act authorizing the state board of regents to convey certain real estate, by Legislative Educational Planning Committee.

HB 2415, An act concerning the state surplus property act; relating to state educational institutions; amending K.S.A. 2009 Supp. 75-6606 and repealing the existing section, by Legislative Educational Planning Committee.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2416, An act making and concerning appropriations for the fiscal year ending June 30, 2010, for state agencies; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Appropriations.

HB 2417, An act concerning judges; relating to district judges and district magistrate judges; amending K.S.A. 20-353 and 20-355 and repealing the existing sections, by Committee on Appropriations.

HB 2418, An act concerning the carbon dioxide reduction act; pertaining to liability of the state of Kansas; pertaining to rules and regulations; amending K.S.A. 2009 Supp. 55-1636 and 55-1637 and repealing the existing sections, by Joint Committee on Administrative Rules and Regulations.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Rep. Merrick, **HCR 5024**, by Reps. O'Neal and Davis, as follows, was introduced and adopted:

HOUSE CONCURRENT RESOLUTION No. 5024—

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.

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the Senate and the House of Representatives meet in joint session in Representative Hall at 7:00 p.m. on January 11, 2010, for the purpose of hearing the message of the Governor.

Be it further resolved: That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the Governor.

Be it further resolved: That a committee of two members from the Senate and three members from the House of Representatives be appointed to wait upon the Lieutenant Governor.

In accordance with **HCR 5024**, Speaker O'Neal appointed Reps. Hayzlett, Myers and Hawk to escort the Governor.

Also, Reps. Vickrey, Aurand and Mah to escort the Lieutenant Governor.

Also, Reps. Brookens, King and Ruiz to escort the Supreme Court.

Also, Reps. Horst, Mast and Menghini to escort the Senate.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following prefiled bills were referred to committees as indicated:

Corrections and Juvenile Justice: **HB 2411**, **HB 2412**, **HB 2413**.

Education: **HB 2409**, **HB 2410**.

Government Efficiency and Fiscal Oversight: **HB 2408**.

Education Budget: **HB 2414**, **HB 2415**.

INTRODUCTION OF GUESTS

Speaker O'Neal introduced Dr. Michael Munger, Overland Park, who is the President of the Kansas Association of Family Physicians. The association sponsors the doctor of the day program and provides daily assistance for health concerns of those serving the Statehouse during the session.

MESSAGES FROM THE SENATE

Announcing adoption of **SR 1801**, a resolution relating to the organization of the 2010 Senate and selection of the following officers:

Steve 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.

Also, announcing adoption of **SCR 1620**, a concurrent resolution relating to a committee to wait upon the Governor and advise him the 2010 session of the Legislature is duly organized and ready to receive communication.

Also, announcing the appointment of Senators Bruce and Kultala as Senate members of the committee to wait upon the Governor.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Rep. Merrick, **SCR 1620**, a concurrent resolution relating to a committee to wait upon the Governor and advise him the 2010 session of the legislature is duly organized and ready to receive communication, was thereupon introduced and adopted.

In accordance with **SCR 1620**, Speaker O'Neal appointed Reps. Hayzlett, Myers and Lane to wait upon the Governor.

On motion of Rep. Merrick, the House recessed until 6:30 p.m.

EVENING SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

It being the hour in accordance with **HCR 5024** to meet in joint session with the Senate to hear the message of the Governor, Reps. Horst, Mast and Menghini escorted President Morris and members of the Senate to seats in the House.

Reps. Brookens, King and Ruiz and Senators Apple and Kelly escorted the Supreme Court to seats in the House.

Reps. Vickrey, Aurand and Mah and Senators Wagle and Faust-Goudeau escorted the Lieutenant Governor to a seat in the House.

Reps. Hayzlett, Myers and Hawk and Senators Reitz and Holland escorted the Governor to the rostrum.

Governor Mark Parkinson's Complete Text of the State of the State

"Mr. Speaker, Mr. President, Minority Leaders Hensley and Davis, Mister Chief Justice, legislators, justices, cabinet officers, elected officials, honored guests and my fellow Kansans:

"For almost 150 years, 45 governors have had the honor to report to this body on the state of the state of Kansas. Throughout those 150 years, we have been through many crises. We have gone through booms and busts, two World Wars and faced countless natural disasters. Despite those challenges, every governor for almost 150 years declared that the state of our state was strong.

"They understood that we do not measure the state of our state by the crisis of the day. The true measure of a state is the quality and character of the people living in it. Are they willing to pull together, stare down challenges and provide a helping hand to those in need?

"Mr. Speaker and Mr. President, the economy has once again tested the quality and character of the citizens of Kansas, and I am happy to report we have passed every test. On every measurement that matters, the state of the state of Kansas has never been stronger.

"Unfortunately, this does not mean that we have overcome every challenge. The greatest economic crisis since the Great Depression continues to fight against us. I am here to tell you tonight that this crisis will not defeat us. To succeed, we must pull together and make sacrifices. To give up in the waning moments of this economic challenge would precipitate decades of intolerable consequences.

"One hundred fifty years ago, our ancestors had a vision for Kansas. They turned that vision into a reality and built the greatest state in the nation. I am calling on you to help protect what we have built over these last 150 years. You have all heard me brag on many occasions about our founding fathers, the struggles they endured and the challenges they overcame. Our founders shared a vision of great public schools, outstanding universities, safe communities and an economic climate that would allow us all to prosper.

"In the early years, our leaders understood the importance of a great higher education system. They established Kansas State University in 1863, just two years after Kansas became a state. Since then we have formed six other major universities, 19 community colleges and seven technical schools and colleges. Their vision was elegant and concise - if you want to keep the best and brightest in a state, you must create a great higher education system to retain them. If you want to attract the best and brightest from other states, you must have great higher education. If you want to provide a workforce for the future, you build great universities, technical schools and community colleges.

“This was not a one-time commitment. It is a commitment our leaders have kept for 150 years, and it worked. Hundreds of thousands of Kansans have graduated from these schools and have made our state what it is today. In addition, our schools have become an economic engine. Ask yourself why the animal health corridor exists in Kansas. It exists because this Legislature had the vision many years ago to fund Kansas State University so it could develop a world class veterinary school. At the same time, Missouri was establishing a veterinary school in Columbia, and a corridor sprung up between the two schools. The result was hundreds of companies and tens of thousands of new jobs. The animal health corridor would have never happened if years ago this legislature had been tight fisted and refused to fund our higher education system. Our 150-year commitment made it possible.

“Ask yourself why Kansas University has the chance to achieve designation as a National Cancer Institute. This opportunity exists because this legislature had the vision to fund higher education so KU could establish a world class medical school. National Cancer Institute designation would have been impossible if years ago this legislature had refused to fund higher education. Our 150-year commitment made it possible.

“Consider the aircraft industry. History’s greatest entrepreneurs formed this industry in Wichita. They deserve the credit, but its growth depends on educational opportunities. It is Wichita State and schools that have produced the workforce that took those entrepreneurs dreams from just a vision to reality. Make no mistake, our commitment to higher education is not just the right thing to do, it is great economic development.

“The same can be said of our investment in our public schools. While other states were shy to adopt public education, we embraced it. Our leaders made the conscious decision clear back in the 1860s to spend money on public education. Their vision was to create a literate population that would become workers, then consumers and lead our state to prosperity. This commitment to public schools was not one time or intermittent; it was long-lasting. It is at the very essence of what makes Kansas, Kansas.

“Throughout our history this has worked. We developed a world class public school system. It is a system that outside entities consistently rate as one of the best in the country. It is a system that has higher graduation rates and test scores than the national average. It is a system that has provided every child a chance and has created the outstanding labor force that we dreamed of building. It happened because those that came before us had vision and the courage to make investments in our future.

“Those that came before us accomplished even more. They built a transportation system that now serves as a model for the rest of the country. They built a public safety system that keeps our communities safe, and they built a safety net because they realized that the true measure of a society is not how it treats the richest of the rich, but rather how it treats those most in need.

“Along the way there have certainly been naysayers, those who have argued that you cannot build great schools, great universities, great roads and have a safety net for those in need without taxing the state out of business. We know the naysayers are wrong. We know that they are wrong because we have achieved excellence with taxes that are below the national average.

“The Tax Foundation rates each state every year for its combined state and local tax burden. It’s an objective way of finding out where we stand. Its findings for 2009 are the same as its findings for most prior years. Kansas is below the national average for taxes that we pay. Below. It is a remarkable achievement. Our founders were cunning and frugal enough to build a great state without taxing us out of business.

“Unfortunately, what we have built is now at risk. Our accomplishments are at risk because the recession has devastated state revenues. We have cut \$1 billion out of the state budget. Like any organization, public or private, there was waste in state government. That is inevitable. That made the first round of cuts relatively easy, but as the deficit grew, the budget cuts have been brutal. We are way beyond the point of cutting waste.

“As a result of my last cuts, schools have closed and universities have laid off professors. Post-release supervision of prisoners has declined, our road maintenance has stopped and payments to our Medicaid providers have decreased. We have cut beyond the point of waste and into the foundation of these critical services.

“Now we face another challenge. Before I describe it, I want to thank each of the 165 of you. Last year, I called on us to pull together in a post-partisan manner to face our challenges and we did. We avoided the partisan bickering and childishness that we see in Washington, D.C. Tonight, the need to pull together has never been more important.

“That is because we face another budget hole of almost \$400 million. We are not \$400 million short of what we need to get these programs back to where they need to be. We are \$400 million short of what we need to keep most of these budgets at their already drastically cut levels.

“I have spent scores of hours studying these programs in search of that \$400 million more that we can cut. I’m here to tell you that it simply is not there. If you can find it, I am open to your input. However, as a person who is fiscally responsible and as a person who has cut more out of our state budget than any Kansan in history, let me repeat - there isn’t \$400 million left that we can responsibly cut. Now is the time to protect what we have. Now is the time to stop cutting education, public safety and aid to the elderly and disabled.

“Here is my plan to come up with the \$400 million - we need to raise two taxes. We must take the cigarette and tobacco tax from 79 cents a pack and raise it to the national average of \$1.34. Not only will this allow us to raise revenue, it has the added benefit of reducing teen smoking. Study after study demonstrates that if you raise this tax, teen smoking will decline.

“We must also raise our sales tax by one cent for a temporary period of 36 months. A temporary increase of just one cent allows us to fund our programs at the minimum acceptable levels while we work our way out of this recession. I am then proposing that after the third year the tax retreat, leaving just two tenths of a cent in place that would be available to craft a moderate but necessary highway program.

“This is by no means a big spending budget. We would still force agencies to live under the enormous constraints that our \$1 billion in cuts have placed on them. There are some areas funded above 2010 levels. This budget allows us to reinstate some funding of schools and universities as we begin their road to recovery. This budget allows us to reinstate some of the post-release supervisory programs in the Department of Corrections, which is a matter of public safety. This budget allows us to restore Medicaid funding so that those most in need will have access to hospitals, doctors and nursing homes.

“The alternative to coming up with this \$400 million is not acceptable. It would require a round of cuts that would do years of damage to what we have built. We would hurt every school district in this state. More schools would close and class sizes would reach intolerable levels.

“Universities, technical schools and community colleges would suffer. Our National Cancer Institute designation would be at risk. Our roads would deteriorate, and we would either have to eliminate supervision of prisoners on parole, or start letting prisoners out of jail early. On top of all that, the budgets for 2012 and beyond would be even more difficult.

“Now, I know there are discussions about other ways to raise \$400 million. There has been talk of eliminating some sales tax exemptions and there is some possibility of additional federal money in some areas. I am open to all ideas and encourage you to examine them. What I am not open to are crippling cuts. Our ancestors worked too hard to build what we have. Now it is our turn. It is a fight worth waging. Our schools are worth fighting for, our universities are worth fighting for, our public safety system is worth fighting for and our safety net for the elderly and disabled is worth fighting for.

“We can do more though than just protect what we have. In addition to fixing the budget, we can prepare for the future. First, let’s ramp up our fight against cancer by enacting a

public smoking ban. It is time. Twenty-four states including North Carolina have done it. If North Carolina, the largest tobacco producing state in the country can enact a public smoking ban, surely Kansas can.

“Let me be very clear. I’m not proposing that we pass a watered down smoking ban. I do not want legislation that the tobacco industry writes, full of loopholes and not a real ban. Seventy-five percent of Kansans want a real public smoking ban and I am asking you to give that to them.

“The second initiative that I want to propose is that we continue to move forward with energy policy in Kansas; 2008 was about building wind farms in Kansas, 2009 was about bringing wind manufacturing jobs and transmission to Kansas. Let’s make 2010 about making Kansas a national leader. We should lead the country in renewable energy.

“Accordingly, I have asked Lieutenant Governor Findley to lead a Cabinet team who will make sure that we take advantage of every opportunity to continue to bring transmission, wind farms and green jobs to Kansas. It is our destiny to provide clean energy to the rest of the country and Lieutenant Governor Findley will lead the way to make that happen.

“Finally, it is time that we take steps to make sure that the state never again finds itself facing this kind of fiscal challenge. There are many reasons for the budget problems that we have. One is that we came into last year without an emergency fund. This is unacceptable.

“Downturns are inevitable. Every business and family knows this, and those that are able develop reserve funds to prepare for those downturns. It is time for the state to do the same. I am asking you to pass the Vratil-Kelly Constitutional Amendment that would require us to set a portion of state revenue aside to create an emergency fund. In years of declining revenue we would tap into the fund and avoid the situation we are currently in. It is time that we put our fiscal house in order and lay the foundation for a solid financial future for this state.

“Now, I want to tell you why I am so optimistic about the future of our state. During a recession, people give up; and once they give up, a recession can become a depression. My message to Kansans tonight is this: don’t give up. There are too many reasons for genuine optimism.

“We are all worried about jobs. Our unemployment rate is not acceptable. The good news is that our Department of Commerce has won battle after battle to bring jobs to the state. Unfortunately, these successes have not kept pace with job losses from current employers. I want Kansans to know that we will continue to fight until every Kansan has a job.

“That will not be long. Kansas is an exporter. We export airplanes, food and energy. As emerging markets continue to grow in countries like China, India, and Brazil, even during this recession, the demand for our products will continue to grow. Seven-hundred million people in emerging countries will join the middle class in the next 20 years, and no state will benefit more from this than Kansas. Demand for our airplanes, our wheat and our energy will explode. But, we cannot give up. We must protect what we have, fight for what we have and prepare for the future.

“Last year, I told you about my vision for Kansas in 2030. That vision is fully intact. I told you that by 2030 our agricultural, energy, and aviation sectors will be booming and our animal health corridor will flourish. Kansas University will have achieved designation as a National Cancer Institute and become a leading research institute in life science. Our higher education system will be world class.

“A renewable energy corridor will exist between Wichita and Salina and provide thousands of jobs to Kansas and clean energy to the world. Wind farms will exist all throughout western Kansas and we will have built the transmission to bring that energy to eastern Kansas and beyond. Our public school system will be strong, our transportation system will be world class and opportunity will abound.

“We will be more diverse. Our Hispanic and Asian populations will grow, and rather than reject our new citizens, as some states have done, we will embrace them as Kansans. More than ever, they will be an important part of the Kansas story.

“I am more confident of this vision than ever. Already this year, we have made progress toward many of these predictions. We have achieved the first approvals for needed energy transmission in western Kansas. We beat our goal of 10 percent renewable energy by 2010 and we are still building additional wind farms. Two major companies have already located in our renewable energy corridor, employing hundreds of Kansans.

“This year we will begin the construction of the National Bio and Agro-Defense Facility in Manhattan. I want Governor Perry of Texas to know that he has my personal invitation to participate in the ground breaking. However, for all of my predictions to come true, we must protect what we have and build for the future.

“Let me close on a personal note; 28 years ago, I started law school at KU. On the second day of class, I met the woman who would become the love of my life, Stacy. Stacy had grown up in west Wichita. She attended Goddard public schools, then KU for her undergraduate degree and law school. She was the first person in her family to graduate from college. I was born and grew up in Wichita, attended Wichita public schools, then Wichita State and ultimately KU law school.

“We fell in love, and even though people will tell you that you should not do this, we got married in our second year of law school. Not smart, but we were in love and had big dreams. We lived in a mobile home and had no money, but we didn’t care. We had each other and a future that we hoped for. After law school we formed our own law firm, ultimately our own business and have been financially rewarded beyond any level that we could have hoped. We have three great kids, and we love them desperately. We have traveled the world and lived a life beyond what we could possibly have dreamed from that mobile home in Lawrence. Stacy and I have lived the American dream and we have lived it without ever leaving Kansas.

“I tell you this not to boast of our good fortune; I tell you this because I want to make sure that future generations of Kansans have the same opportunities as Stacy and me. We are able to live this life because legislators and governors decades ago decided that building great public schools and universities was the right thing to do. We are able to live this life because in Kansas, you didn’t have to be rich to go to a good school or go to college.

“Now I’m asking you to make the same decisions for future generations to come. I’m asking you to give our children and our children’s children the same opportunity that Stacy and I and all of you have had - the opportunity to live the American dream without ever leaving the state.

“Generations from now, historians will look at how Kansas handled the greatest economic crisis since the Great Depression. We have the opportunity to astonish them. The decisions that you can make will mean that not only did we fight back, not only did we protect what our ancestors built, but while everyone else was in a panic, we moved forward. Let’s seize that opportunity, astonish the historians and write history that will make all future generations proud.

“Thank you. God Bless you, God Bless Kansas and God Bless America.”

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Tuesday, January 12, 2010.

SUSAN W. KANNARR, *Chief Clerk.*

CHARLENE SWANSON, *Journal Clerk.*

