

Journal of the Senate

THIRTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, March 8, 2010—2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with thirty-eight senators present.
Senators Hensley and Morris were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Most of our votes are unanimous;
At least they are almost.
It's those which call for decisions
Which demand our uttermost.

We've found as we move through the session
Lots of people offer us advice.
We get it from lobbyists and conferees.
Some people just say, "Roll the dice."

We also get advice from our spouse,
And people who don't have a clue.
All that's involved in the process
Is deciding what is the best to do.

We get advice from our colleagues,
From letters, e-mail and phones.
Some of it is hard to believe;
Some even make us groan.

We can usually count on the Chaplain
To remind us Who knows it all.
He suggests we discover Your will
Simply by giving You a call.

Prayer doesn't cost us a nickel,
And You are always awake
Waiting to give us the best advice.
It's advice we really should take!

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 565, An act concerning the department of health and environment; creating the health information exchange — federal fund and the quanteFERON TB laboratory testing fund, by Committee on Ways and Means.

SB 566, An act concerning veterans; relating to the commission on veterans affairs; amending K.S.A. 73-1208b and repealing the existing section, by Committee on Ways and Means.

CHANGE OF REFERENCE

The Vice President withdrew **SB 476** from the Committee on **Assessment and Taxation**, and rereferred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **SB 530** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Assessment and Taxation**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1833—

A RESOLUTION congratulating Elaine Pardee as a 2009 Siemens Awards for Advanced Placement recipient.

WHEREAS, The Siemens Foundation has supported the efforts of students and teachers who perform exceptionally well in science, technology, engineering and mathematics across the Nation; and

WHEREAS, The Siemens Foundation has announced the 50 recipients of the 2009 Siemens Awards for Advanced Placement which honors teachers who consistently commit their time and dedication to ensuring that their students excel in these vitally important fields; and

WHEREAS, A \$1,000 grant is provided to each award recipient teacher's high school to support science and mathematics education; and

WHEREAS, Washburn Rural High School teacher Elaine Pardee has been named as the Kansas recipient of the 2009 Siemens Awards for Advanced Placement; and

WHEREAS, Elaine Pardee's selection for this award demonstrates her exemplary teaching and enthusiastic dedication to students and the advance placement program; and

WHEREAS, Kansas citizens can take great pride in having a recipient of this award and in her efforts to foster student achievement: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Elaine Pardee as a recipient of the 2009 Siemens Awards for Advanced Placement for her outstanding performance in her chosen career; and

Be it further resolved: That the Secretary of the Senate be directed to provide a copy of this resolution to Elaine Pardee and to Ed Raines, principal of Washburn Rural High School.

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

Senator V. Schmidt introduced and congratulated Elaine Pardee as the recipient of the "Kansas 2009 Siemens Award for Advanced Placement." Her husband Rick, Nikki Meier, Lauren Meier, Dean Glatt, Rose Marie Glatt, Ted Mlynek, Judie Mlynek, Superintendent Brenda Dietrich, Principal Ed Raines, Gordon Shipley, Linda Shipley were also introduced.

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

SENATE RESOLUTION No. 1834—

A RESOLUTION congratulating and commending Alex Stonebarger for being named one of the top two youth volunteers in Kansas for 2010 in the 15th annual Prudential Spirit of Community Awards.

WHEREAS, Alex Stonebarger, a resident of Leawood, Kansas, and an eighth grade student at Mission Valley Middle School, has achieved national recognition for exemplary volunteer service by receiving a 2010 Prudential Spirit of Community Award; and

WHEREAS, Alex combined her love for animals and her commitment to the environment by founding a youth volunteer organization called "Fetching Dreams" that has raised \$3,500 for animal charities by making and selling pet-safe toys and leashes from recycled building materials and discarded fabric. Alex recruited and trained volunteers from various school

groups and community organizations to help make the toys and leashes, which were then sold at festivals, art fairs, animal shows and other local events; and

WHEREAS, The proceeds, as well as donations solicited through her website, www.fetchingdreams.webs.com, go to the Humane Society of Kansas City, a no-kill animal shelter, as well as the Rolling Dog Ranch in Montana, a sanctuary for disabled animals; and

WHEREAS, Because of her efforts, Alex was nominated by Mission Valley Middle School for the Prudential Spirit of Community Award. This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities. As a State Honoree, Alex received \$1,000, an engraved silver medallion, and an all-expense paid trip in early May to Washington D.C., where she will join other honorees from each of the other states and the District of Columbia for several days of national recognition events; and

WHEREAS, The success of the State of Kansas, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Alex who use their considerable talents and resources to serve others: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Alex Stonebarger for being named one of two state recipients of the Prudential Spirit of Community Award, we honor her outstanding record of volunteer service, peer leadership and community spirit, and we extend our best wishes for her continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to send one enrolled copy of this resolution to Senator Vratil.

On emergency motion of Senator Owens **SR 1834** was adopted unanimously.

Senator Vratil introduced and congratulated Alex Stonebarger for being named one of the top two youth volunteers in Kansas for 2010 in the 15th annual Prudential Spirit of Community Awards. Accompanying Alex were Greg Stonebarger, Lorie Stonebarger, Jack Stonebarger and Mary Friend.

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

SENATE RESOLUTION No. 1835—

A RESOLUTION congratulating and commending Aniruddha Rao for being named a Distinguished Finalist for 2010 in the 15th annual Prudential Spirit of Community Awards.

WHEREAS, Aniruddha “Andy” Rao, a resident of Overland Park, Kansas, and a senior at Blue Valley Northwest High School, has been recognized for exemplary volunteer service as a Distinguished Finalist in the 2010 Prudential Spirit of Community Awards; and

WHEREAS, Andy helped develop a performance known as “The Outrage” at his school to educate the community about teen dating violence and domestic abuse. Andy and other members of “The Outrage” theatre troupe performed the play more than 50 times for over 10,000 people in one year; and

WHEREAS, Because of his efforts, Andy was nominated by Blue Valley Northwest High School for the Prudential Spirit of Community Award. This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities. As a Distinguished Finalist, Andy received a bronze medallion at a local ceremony; and

WHEREAS, The success of the State of Kansas, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Andy who use their considerable talents and resources to serve others: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Aniruddha Rao for being named as a Distinguished Finalist for the Prudential Spirit of Community Award, we honor his outstanding record of volunteer service, peer leadership and community spirit, and we extend our best wishes for his continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to send one enrolled copy of this resolution to Senator Vratil.

On emergency motion of Senator Owens **SR 1835** was adopted unanimously.

Senator Vratil introduced and congratulated Aniruddha (Andy) Rao for being named a Distinguished Finalist for 2010 in the 15th annual Prudential Spirit of Community Awards. Also accompanying Andy were Sneha Rao, Sandeep Rao, Priyanka Rao, Helen Hardgree and Allison Basinger.

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

SENATE RESOLUTION No. 1836—

A RESOLUTION congratulating and commending the Olathe North High School football team for winning the 2009 6A State Championship.

WHEREAS, The Olathe North High School football team won the 2009 6A State Championship 37-3 over Wichita Heights High School; and

WHEREAS, The win gave the Olathe North Eagles their 8th State Championship since 1996; and

WHEREAS, The 2009 Eagles ended their season undefeated with a record of 13-0; and

WHEREAS, The Eagles are lead by head coach Pete Flood, who won the 2009 Metro Sports Coach of the Year Award, and a superior assistant coaching staff who used their experience and expertise to guide Olathe North during this season; and

WHEREAS, Seniors David Blazevic, Thomas Jacob Carroll, Jordan Cartwright, James Franklin, David Haase, Wesley Hammons, Phillip Huntley, Zach Maggard, Jared Mors, Jason Peete, Peter Rogers, Oliver Venegas, Lucas Vincent, Armogen Walker and Dalton Wintrobe all went through their senior season without losing a single game; and

WHEREAS, This championship and winning tradition are testaments to the dedication and hard work put in by every member of the Olathe North football team and staff, who have a tradition of excellence that continues to make Kansas proud: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe North High School football team for winning the 2009 State Championship and that we wish the team luck and continued success in the future; and

Be it further resolved: That the Secretary of the Senate be directed to send 79 enrolled copies of this resolution to Senator Lynn.

On emergency motion of Senator Lynn **SR 1836** was adopted unanimously.

Senator Lynn congratulated and commended the Olathe North High School football team for winning the 2009 6A State Championship. The football players acknowledged were: Jason Herman, Pete Flood, Chad Ralston, Brad Keepes, Matt Sinclair, Jake Petty, Tre Walker, Lucas Vincent, James Franklin, Jake Carroll, Oliver Venegas and Jason Peete.

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

SENATE RESOLUTION No. 1837—

A RESOLUTION congratulating and commending Olathe North High School football coach Pete Flood for leading his team in winning the 2009 6A State Championship and for receiving the 2009 Metro Sports Coach of the Year Award.

WHEREAS, Coach Pete Flood of Olathe North High School had an outstanding year, leading the Eagles football team in an undefeated season, with a record of 13-0; and

WHEREAS, In 2006, Coach Flood became the head coach of the football team at Olathe North, where he also teaches Social Studies, and has a career record of 35-10 at the school; and

WHEREAS, Olathe North has great passion and pride for their football program, and Coach Flood has been a welcome addition to the successful tradition of the Eagles; and

WHEREAS, In 2009, the undefeated Eagles beat Wichita Heights High School 37-3, therefore winning the 6A State Championship; and

WHEREAS, Coach Flood was honored at a ceremony held at Olathe North, as the 2009 recipient of the prestigious Metro Sports Coach of the Year; and

WHEREAS, Coach Flood is enthusiastically supported by the Olathe community, his students, as well as his wife Brenda and children Kena, Jared and Wyatt, who share in his excitement for the game of football and pride in his team: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Pete Flood for winning the 2009 Metro Sports Coach of the Year, and for his outstanding record as the head coach of the Olathe North football team, who won the 2009 6A State Championship, and wish him continued success and happiness in the future; and

Be it further resolved: That the Secretary of the Senate be directed to send five enrolled copies of this resolution to Senator Lynn.

On emergency motion of Senator Lynn **SR 1837** was adopted unanimously.

Senator Lynn congratulated Coach Pete Flood on receiving the 2009 Metro Sports Coach of the Year Award. Olathe North High School won the 2009 6A State Championship.

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

SENATE RESOLUTION No. 1838—

A RESOLUTION congratulating and commending James Franklin for his achievements as part of the state champion Olathe North High School football team, and for winning the 2009 Thomas A. Simone Memorial Football Award.

WHEREAS, James Franklin of Olathe North High School has been an outstanding member of the Olathe North Eagles football team throughout his high school career, culminating with a record-breaking senior year; and

WHEREAS, James has shown admirable dedication and loyalty to his school and has been known to demonstrate his belief that he is only as successful in football as his team as a whole, something that has been accurately reflected as his team won the 2009 6A State Championship; and

WHEREAS, As a senior, James lead the Kansas City area in rushing, amassing 2,803 yards and 31 touchdowns. He also had 5,916 career yards, breaking the school record held by legendary Darren Sproles; and

WHEREAS, James was the recipient of the 2009 Thomas A. Simone Memorial Football Award, giving Olathe North a total of six winners, more than any school in the Kansas City metro area; and

WHEREAS, The Simone Award is the most prestigious local football award, going to the most outstanding player, regardless of position played. James joined such Olathe North greats as Jim Bouknight, Josh Brewer, Maurice Mack, Arland Bruce and NFL star Darren Sproles; and

WHEREAS, The award is selected by a vote of the Greater Kansas City Football Coaches Association (GKCFCA), head coaches in the metro area and selected media members. The award ceremony took place at Olathe North High School, where the Eagles head coach Pete Flood was also honored with the 2009 Metro Sports Kansas Coach of the Year award, the first time that both awards have come from the same school; and

WHEREAS, James has received a scholarship and signed a letter of intent to play for the University of Nebraska at Omaha to continue his football career on the college level: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend James Franklin for his exceptional performance as part of the state champion Olathe North High School football team, and for winning the 2009 Thomas A. Simone Memorial Football Award, and extend our best wishes for his continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to send six enrolled copies of this resolution to Senator Lynn.

On emergency motion of Senator Lynn **SR 1838** was adopted unanimously.

Senator Lynn congratulated James Franklin on winning the 2009 Thomas A. Simone Memorial Football Award.

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

SENATE RESOLUTION No. 1839—

A RESOLUTION congratulating and commending Coach Joel Branstrom on making a half-court basketball shot while blindfolded.

WHEREAS, Joel Branstrom is the girls basketball coach for Olathe Northwest High School; and

WHEREAS, The Ravens Flight Corps of Olathe Northwest High School decided to play a prank on Coach Branstrom; and

WHEREAS, Coach Branstrom was offered the chance by the Ravens Flight Corps to win tickets to the NCAA Final Four by making a half-court basketball shot while blindfolded as part of such prank; and

WHEREAS, The students of Olathe Northwest High School planned to cheer wildly for Coach Branstrom after he missed the shot in order to trick him into thinking he had made it; and

WHEREAS, Coach Branstrom got the last laugh by making the 47-foot basketball shot while blindfolded in front of the entire student body of Olathe Northwest High School; and

WHEREAS, NCAA Final Four tickets were donated to Coach Branstrom by the NCAA when it was discovered that no tickets had been purchased as it was not anticipated that Coach Branstrom would make the shot: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate Coach Joel Branstrom for his dedication and service to Olathe Northwest High School and his tremendous basketball shooting skills while being blindfolded.

Be it further resolved: That the Secretary of the Senate be directed to provide six enrolled copies of this resolution to Senator Julia Lynn.

On emergency motion of Senator Lynn **SR 1839** was adopted unanimously.

Senator Lynn introduced Coach Joel Branstrom and described the circumstance under which he exhibited outstanding basketball shooting skills at Olathe Northwest High School. Accompanying Coach Branstrom were Megan Blevins, Rebecca DeGroot, Kara Hoisington, Amber Ramsey, Betsy Smith, Chad Ralston, Brad Keepes, Matt Sinclair and Jake Petty.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **HB 2595**, as amended by House Committee, be amended on page 1, in line 18, by striking all after “state”; in line 19, by striking all before the period; and the bill be passed as amended.

Committee on Judiciary begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

State Board of Indigents’ Defense Services: K.S.A. 22-4519

Lawrence P. Daniels, term expires March 15, 2012

Kansas Parole Board: K.S.A. 22-3707

Patricia Ann Biggs, term expires January 15, 2014

Committee on **Public Health and Welfare** recommends **HB 2584** be passed.

Also, **SB 447** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 447,” as follows:

“Substitute for SENATE BILL No. 447

By Committee on Public Health and Welfare

“AN ACT concerning child care; relating to supervision of children in child care facilities and licensing and inspection of family child care homes; amending K.S.A. 39-7, 129, 65-504, 65-506, 65-512, 65-523, 65-524, 65-530 and 65-531 and K.S.A. 2009 Supp. 59-29a11, 65-503, 65-516, 65-525 and 65-526 and repealing the existing sections; also repealing K.S.A. 65-517, 65-518, 65-519, 65-520, 65-521 and 65-522.”;

and the substitute bill be passed.

Committee on **Transportation** recommends **HB 2437** be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2437,” as follows:

“SENATE Substitute for HOUSE BILL No. 2437

By Committee on Transportation

“AN ACT relating to motor vehicles; regulating traffic; prohibiting text messaging while operating a moving motor vehicle; concerning the use of safety belts; amending K.S.A. 2009 Supp. 8-2118, 8-2503 and 8-2504 and repealing the existing sections.”;

and the substitute bill be passed.

Also, **SB 480** be amended on page 1, in line 19, by striking “the plate’s”; in line 20, by striking “visibility or reflectivity” and inserting “the visibility, reflectivity or readability of any relevant information displayed on the plate.

(b) From and after July 1, 2010, and prior to July 1, 2011, a law enforcement officer shall issue a warning citation to anyone violating subsection (a)(3)”;

Also on page 1, in line 21, by striking “(b)” and inserting “(c)”;

On page 4, by striking all in line 42; after line 43, by inserting the following:

“Unlawful riding on vehicle 8-1578a §60”;

and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2652**, as amended by House Committee of the Whole, be amended on page 1, in line 41, by striking “April” and inserting “June”;

On page 2, after line 11, by inserting the following:

“Sec. 2. K.S.A. 66-1811 is hereby amended to read as follows: 66-1811. (a) In a civil action in a court of this state when it is shown by competent evidence that personal injury, death or other damages, including damage to any underground facilities, occurred as a result of a violation of this act, there shall be a rebuttable presumption of negligence on the part of the violator.

(b) In no event shall the excavator be responsible for any damage to underground facilities if such damage was caused by the failure of the operator to correctly and properly mark the location of the tolerance zone of the damaged facility.

(c) Nothing in this act is intended to limit or modify the provisions of:

(1) K.S.A. 60-258a, and amendments thereto; or

(2) the national electrical safety code, which would otherwise be applicable.

(d) *In no event shall the excavator be responsible for any damage to underground facilities of a municipality which has elected by passage of a charter ordinance to exempt such municipality from the provisions of K.S.A. 66-1801 et seq., and amendments thereto, unless such excavator is guilty of gross and wanton negligence proximately causing such injury.*

(e) *This section shall take effect and be in force on and after July 1, 2010.*

Sec. 3. K.S.A. 66-1811 is hereby repealed.”;

And by renumbering sections accordingly;

Also on page 2, in line 14, by striking “statute book” and inserting “Kansas register”;

In the title, in line 12, by striking “the Kelsey Smith act” and inserting “utilities”; also in line 12, after “amending” by inserting “K.S.A. 66-1811 and”; in line 13, by striking “section” and inserting “sections”; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, March 9, 2010.

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

