

# Journal of the Senate

TWENTY-SECOND DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, February 10, 2016, 2:30 p.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 39 senators present.

Senator McGinn was excused.

Invocation by Reverend Cecil Washington, Jr.:

Heavenly Father, You said, in Proverbs 11:14, that there's wisdom in a multitude of counselors, so as we struggle to make wise decisions, we will tap into a wide variety of information sources. You also said in Proverbs 2:6, that all TRUE wisdom comes from You...that genuine knowledge and understanding find their origin in You. So, as we confront our difficulties...as we face the problems that puzzle us, enable is to discern genuine wisdom...the ability to see things from Your perspective. Because You mentioned, in 1 Corinthians 2, that there is a wisdom that is not from You, and we want to be...we need to be sharp enough to know the difference. Lord, You promised, in James 1:5, to give us three things, if we ask: 1. You'd give us wisdom. 2. You'd give it in abundance. 3. You wouldn't scold us for lacking wisdom or for not already knowing what we should do. So, Lord, impress upon us that tapping into Your information source is what we need to depend on in our conversations...in our debates...in the bills that are introduced and in the voting. In fact, in all that we do, let the evidence show...let it be obvious that the wisdom displayed, had to have come from You. Lord, I pray that everything we approve of, be a reflection of Your approval. In the Name of Jesus... Wisdom Personified, Amen and Amen.

The Pledge of Allegiance was led by President Wagle.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 434**, AN ACT concerning crimes, punishment and criminal procedure; relating to criminal discharge of a firearm; sentencing; amending K.S.A. 2015 Supp. 21-6308 and 21-6804 and repealing the existing sections, by Senators Haley and Pettey.

**SB 435**, AN ACT concerning crimes, punishment and criminal procedure; relating to sentencing; creating alternative incarceration credit; amending K.S.A. 2015 Supp. 21-6821 and repealing the existing section, by Committee on Corrections and Juvenile Justice.

**SB 436**, AN ACT concerning public health; relating to funding of entities that provide family planning services, by Senators Abrams, Arpke, Baumgardner, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn,

Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle and Wilborn.

**SB 437**, AN ACT concerning health care; dealing with withholding life-sustaining treatment of certain persons, by Committee on Federal and State Affairs.

**SB 438**, AN ACT concerning insurance; relating to property and casualty insurance; policy renewals; amending K.S.A. 40-297 and repealing the existing section; also repealing K.S.A. 40-296, by Committee on Financial Institutions and Insurance.

**SB 439**, AN ACT relating to grounds for impeachment of justices of the supreme court and certain judges of the district court, by Senators Fitzgerald, Abrams, Arpke, Baumgardner, Donovan, Holmes, Knox, LaTurner, Lynn, Masterson, Melcher, O'Donnell, Olson, Petersen, Powell, Pyle, Smith and Tyson.

**SB 440**, AN ACT concerning the judicial branch; relating to the supreme court, general administrative authority; amending K.S.A. 20-101, 20-115, 20-156, 20-159, 20-347 and 20-3102 and K.S.A. 2015 Supp. 75-3120g and 75-3120h and repealing the existing sections; reviving K.S.A. 20-319, 20-329, 20-342, 20-343, 20-345, 20-349 and 20-3011; reviving and amending K.S.A. 20-162, 20-318, 20-346a, 20-361, 20-2909, 20-2911, 20-2914 and 25-312a and K.S.A. 2013 Supp. 75-5541 and 75-5551 and repealing the revived sections; also repealing K.S.A. 19-4809, 19-4811, 20-104, 20-109, 20-110, 20-111, 20-112, 20-116, 20-139, 20-152, 20-153, 20-154, 20-157, 20-161, K.S.A. 20-162, as amended by section 7 of chapter 82 of the 2014 Session Laws of Kansas, 20-163, 20-168, 20-201, 20-202, 20-203, 20-204, 20-205, 20-206, 20-207, 20-208, 20-208b, 20-209, 20-210, 20-211, 20-212, 20-213, 20-310b, 20-311, 20-318, as amended by section 9 of chapter 82 of the 2014 Session Laws of Kansas, 20-319, as revived by section 7 of this act, 20-319, as amended by section 10 of chapter 82 of the 2014 Session Laws of Kansas, 20-320, 20-321, 20-322, 20-323, 20-329, as revived by section 8 of this act, 20-329, as amended by section 11 of chapter 82 of the 2014 Session Laws of Kansas, 20-342, as revived by section 9 of this act, 20-342, as amended by section 12 of chapter 82 of the 2014 Session Laws of Kansas, 20-343, as revived by section 10 of this act, 20-343, as amended by section 13 of chapter 82 of the 2014 Session Laws of Kansas, 20-345, as revived by section 11 of this act, 20-345, as amended by section 14 of chapter 82 of the 2014 Session Laws of Kansas, 20-346a, as amended by section 15 of chapter 82 of the 2014 Session Laws of Kansas, 20-349, as revived by section 14 of this act, 20-349, as amended by section 16 of chapter 82 of the 2014 Session Laws of Kansas, 20-357, 20-361, as amended by section 17 of chapter 82 of the 2014 Session Laws of Kansas, 20-438, 20-917, 20-2909, as amended by section 19 of chapter 82 of the 2014 Session Laws of Kansas, 20-2911, as amended by section 20 of chapter 82 of the 2014 Session Laws of Kansas, 20-2914, as amended by section 21 of chapter 82 of the 2014 Session Laws of Kansas, 20-3011, as revived by section 19 of this act, 20-3011, as amended by section 22 of chapter 82 of the 2014 Session Laws of Kansas, 20-3014, 20-3015, 20-3019 and 25-312a, as amended by section 25 of chapter 82 of the 2014 Session Laws of Kansas; K.S.A. 2013 Supp. 75-5541, as amended by section 40 of chapter 82 of the 2014 Session Laws of Kansas, and 75-5551, as amended by section 41 of chapter 82 of the 2014 Session Laws of Kansas; and K.S.A. 2015 Supp. 20-1a17, 20-310a, 20-319, 20-329, 20-342, 20-343, 20-345, 20-349, 20-384, 20-3011 and 20-3301, by Senator King.

**SB 441**, AN ACT concerning elections; relating to election commissioners; amending K.S.A. 19-3419 and repealing the existing section, by Senators Hensley, Faust-

Goudeau, Francisco, Hawk, Holland, Kelly and Pettey.

**SB 442**, AN ACT concerning sales taxation; relating to exemptions; providing for a sales tax holiday for sales of food and food ingredients during certain times of the year, during holiday seasons; amending K.S.A. 2015 Supp. 79-3606 and repealing the existing section, by Senators Hensley, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Kelly and Pettey.

**SB 443**, AN ACT declaring the cage elevator in the Kansas state capitol building as the official cage elevator of the state of Kansas, by Senators Haley, Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn and Wolf.

SENATE CONCURRENT RESOLUTION No. **SCR 1611**—

By Senator Kerschen

A CONCURRENT RESOLUTION applying to Congress for a limited amendments convention to restore free and fair elections by overturning the decision of the United States Supreme Court in *Citizens United v. Federal Election Commission*.

WHEREAS, The first President of the United States, George Washington, stated, "The basis of our political systems is the right of the people to make and to alter their Constitutions of Government."; and

WHEREAS, It was the intention of the framers of the Constitution of the United States of America, as stated by James Madison in the *Federalist Papers*, that the Congress of the United States of America should be "dependent on the people alone"; and

WHEREAS, That dependency has evolved from a dependency on the people alone to a dependency on those who spend excessively in elections, through campaigns or third-party groups; and

WHEREAS, The United States Supreme Court ruling in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), removed restrictions on amounts of independent political spending; and

WHEREAS, The removal of those restrictions has resulted in the unjust influence of powerful economic forces, which have supplanted the will of the people by undermining the people's ability to choose their political leadership, write their own laws and determine the fate of their state; and

WHEREAS, Article V of the United States Constitution requires the United States Congress to call a convention for proposing amendments upon application of two-thirds of the legislatures of the several states for the purpose of proposing amendments to the United States Constitution; and

WHEREAS, The State of Kansas sees the need for a convention to propose amendments to address concerns such as those raised by the decisions of the United States Supreme Court in *Citizens United v. Federal Election Commission* and related cases, and desires that said convention should be so limited; and

WHEREAS, The State of Kansas desires that the delegates to said convention shall be comprised equally from individuals currently elected to state and local office, or be selected by election in each Congressional district for the purpose of serving as

delegates, though all individuals elected or appointed to federal office, now or in the past, be prohibited from serving as delegates to the convention, and intends to retain the ability to restrict or expand the power of its delegates within the limits expressed above; and

WHEREAS, The State of Kansas intends that this be a continuing application, considered together with applications calling for a convention passed in the 2013-2014 Vermont legislature as R454, the 2013-2014 California legislature as Resolution Chapter 77, the 98<sup>th</sup> Illinois General Assembly as Senate Joint Resolution No. 42, the 2014-2015 New Jersey legislature as SCR 132, and all other passed, pending and future applications, the aforementioned concerns of Kansas notwithstanding, until such time as two-thirds of the several states have applied for a convention, and said convention is convened by Congress: Now, therefore,

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the Senate and two-thirds of the members elected to the House of Representatives concurring therein:* That the people of the State of Kansas, speaking through its legislature, and pursuant to Article V of the United States Constitution, hereby petition the United States Congress to call a convention for the purpose of proposing Amendments to the Constitution of the United States of America, as soon as two-thirds of the several states have applied for a convention; and

*Be it further resolved:* That the Secretary of State shall send an enrolled copy of this resolution to the President of the United States, the Vice President of the United States in his capacity as presiding officer of the United States Senate, the Speaker of the United States House of Representatives, the Minority Leader of the United States House of Representatives and the President Pro Tempore of the United States Senate; to each Senator and Representative from Kansas serving in the Congress of the United States, with the respectful request that the full and complete text of this resolution be printed in the Congressional Record; and to the presiding officers of each legislative body of each of the several states, requesting the cooperation of these states in issuing an application compelling Congress to call a convention for proposing amendments pursuant to Article V of the U.S. Constitution.

#### **REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to Committees as indicated:

Commerce: **SB 433**.

Corrections and Juvenile Justice: **SB 426, SB 430**.

Ethics and Elections: **SB 431, SB 432**.

Federal and State Affairs: **SCR 1610**.

Judiciary: **SB 424, SB 427, SB 428, SB 429**.

Natural Resources: **SB 425**.

Public Health and Welfare: **SB 422**.

Ways and Means: **SB 423**.

#### **MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2018, HB 2467, HB 2469, HB 2512**.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2018, HB 2467, HB 2469, HB 2512** were thereupon introduced and read by title.

**CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR**

Senator King moved the Senate concur in House amendments to **SB 133**.

**SB 133**, AN ACT concerning children and minors; relating to possession or consumption of alcoholic beverages; immunity from liability for minor seeking medical assistance; amending K.S.A. 2015 Supp. 41-727 and repealing the existing section.

On roll call, the vote was: Yeas 36; Nays 3; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Wagle, Wilborn, Wolf.

Nays: Baumgardner, Knox, Tyson.

Absent or Not Voting: McGinn.

The Senate concurred.

**FINAL ACTION ON CONSENT CALENDAR**

**SB 312, SB 373** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered for final action.

**SB 312**, AN ACT concerning the legislative post audit committee; auditing unified school districts; amending K.S.A. 2015 Supp. 46-1133 and repealing the existing section.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: McGinn.

The bill passed.

**SB 373**, AN ACT concerning motor vehicles; relating to driver's licenses; operating vehicles with temporary registration; amending K.S.A. 2015 Supp. 8-235 and repealing the existing section.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: McGinn.

The bill passed.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**Sub SB 99**, AN ACT concerning the uniform act regulating traffic; relating to height and length of vehicles and loads; exceptions to maximums; amending K.S.A. 8-1905 and K.S.A. 2015 Supp. 8-1904 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: McGinn.

The substitute bill passed.

**EXPLANATION OF VOTE**

Madam President: I want to thank the Chair of Transportation for his effort of passing **Sub SB 99**. This has been an ongoing issue during my 16 years as a legislator. Kansas Custom Harvesters can now travel without problems through Kansas.—RALPH OSTMEYER

**SB 225**, AN ACT relating to the interstate compact for recognition of emergency personnel licensure, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: McGinn.

The bill passed.

**SB 243**, AN ACT concerning the state civil service board; transferred from the department of administration to the office of administrative hearings; amending K.S.A. 75-2929b, 75-2929g and 75-3746 and K.S.A. 2015 Supp. 75-2929d and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: McGinn.

The bill passed.

**SB 341**, AN ACT concerning the Kansas medical assistance program; relating to the electronic claims management system; removing certain limitations thereunder;

amending K.S.A. 2015 Supp. 39-7,121 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 23; Nays 16; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, Olson, Petersen, Pilcher-Cook, Powell, Smith, Wagle, Wilborn.

Nays: Bowers, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Longbine, O'Donnell, Ostmeyer, Pettet, Pyle, V. Schmidt, Tyson, Wolf.

Absent or Not Voting: McGinn.

The bill passed, as amended.

#### EXPLANATION OF VOTE

Madam President: **SB 341** excludes mental health and behavioral health drugs from Step Therapy. This class of drugs was carved out of step therapy with **HB 2149** in 2015, Statute Reference 39-7,121b.—JIM DENNING

Senator Lynn requests the record to show she concurs with the "Explanation of Vote" offered by Senator Denning on **SB 341**.

Madam President: So-called atypical and second generation antipsychotic medications account for a significant portion of state Medicaid expenditures, and this has made them an attractive target for states trying to restrain rising Medicaid expenditures. In a 2008 study published in the peer-reviewed Clinical Therapeutics medical journal comparing schizophrenia medications in Georgia's and Mississippi's Medicaid programs, a step therapy program saved Georgia \$19.62 per patient per month in atypical antipsychotic procedures. Unfortunately, the pharmacy savings were accompanied by a \$31.59 per patient per month increase for outpatient services. In addition to little to no realized cost savings regarding atypical antipsychotic medications, this policy change would also prolong the living hell that those with acute mental illnesses would suffer through. I would NEVER want a loved one suffering with a serious mental illness to be subjected to such capricious policy. I vote "No" on **SB 341**.—TOM HOLLAND

**SB 349**, AN ACT concerning motor vehicles; relating to commercial driver's licenses; hazardous materials endorsement exemption, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettet, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: McGinn.

The bill passed, as amended.

**HB 2387**, AN ACT concerning emergency medical services; amending K.S.A. 2015 Supp. 65-6102, 65-6111, 65-6112, 65-6120, 65-6121, 65-6129b, 65-6129c, 65-6133, 65-6135 and 65-6144 and repealing the existing sections, was considered on final

action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettet, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: McGinn.

The bill passed, as amended.

### REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 359** be amended on page 2, in line 12, before "prior" by inserting "Annually, at least 10 business days"; in line 14, by striking "annually"; in line 15, by striking "or" and inserting "and"; also in line 15, after "website" by inserting ", if the county maintains a county website,"; and the bill be passed as amended.

Also, **SB 353** 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 **Financial Institutions and Insurance** recommends **SB 369**, **SB 370** be passed.

Committee on **Judiciary** recommends **SB 395** be passed.

On motion of Senator Bruce, the Senate recessed until the sound of the gavel for purposes of introduction of bills.

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Vice President Jeff King assumed the chair.

On motion of Senator Bruce, the Senate adjourned until 2:30 p.m., Thursday, February 11, 2016.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.  
COREY CARNAHAN, *Secretary of the Senate*.

