

Journal of the Senate

TWENTY-FORTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 15, 2011, 2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-eight senators present.
Senators Donovan and Marshall were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Today we pray for some of the leadership that joined us this year:
Governor Sam Brownback, Lt. Governor Jeff Colyer, Senate Majority Leader
Jay Scott Emler and Senator Allen Schmidt.

We pray for Governor Brownback,
Keep him safe and well;
Along with Lt. Governor Colyer
That he, too, will excel.

And since for five new Senators
I have already prayed;
I pray for Senator Allen Schmidt
As he joins our Senate "crusade".

We pray for Senator Emler
As our new Majority Leader.
He has shown his ability
And is a friendly greeter.

The apostle Paul made it clear
That all authority comes from You,
And that all our government leadership
Owe their authority unto You.

Remind the leaders in Kansas Government,
That You are forever their Master,
And that they are servants unto You
To bless Kansas so much faster.

I pray in the Name of Jesus Christ,
AMEN

The pledge of allegiance was led by President Stephen Morris.

INTRODUCTION OF GUESTS

The Senate welcomed CJ Wei, KCCAA President of the Transworld Group of China who introduced the following members of Consul General's Group: General Guoqiang Yang, Xueyong Yu and Xiaocheng Wang. Tammy Wang, Kansas City Ethnic Enrichment Commissioner for China was also introduced and all were welcomed with a standing ovation.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 206, AN ACT concerning surplus lines insurance; relating to the surplus lines insurance multi-state compliance compact, by Committee on Ways and Means.

SB 207, AN ACT concerning counties; relating to acceptance of credit and debit cards, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: SB 205.

Education: SB 202; HB 2078.

Federal and State Affairs: SB 201, SB 203, SB 204.

Judiciary: HB 2008, HB 2070; HCR 5007.

Public Health and Welfare: HB 2082, HB 2083.

Ways and Means: HB 2054.

MESSAGE FROM THE HOUSE

Announcing adoption of **HCR 5014**, a concurrent resolution providing for a Joint session of the Senate and House of Representatives for the purpose of hearing a message from the Chief Justice of the Kansas Supreme Court and the appointment of:

Representatives McLeland, Powell and Pauls to escort the Supreme Court.
Representatives Goico, Burgess and Ballard to escort the Senators.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5014, providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Supreme Court, was introduced and read by title.

On motion of Senator Emler **HCR 5014** was adopted by voice vote.

In compliance with **HCR 5014**, President Morris appointed Senator King and Senator Kultala to escort the Supreme Court.

CONSIDERATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

Senator Emler moved the following appointments be confirmed as recommended by the Standing Senate Committees:

By the Governor:

On the appointment to the:

Department of Aging:

Shawn Sullivan, Secretary, serves at the pleasure of the Governor.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

The appointment was confirmed.

By the Governor:

On the appointment to the:

Department of Agriculture:

Dale Rodman, Secretary, serves at the pleasure of the Governor.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

The appointment was confirmed.

FINAL ACTION BILLS AND CONCURRENT RESOLUTIONS

SB 5, AN ACT concerning the Kansas board of healing arts; relating to licensure and education of perfusionists; establishing perfusion council, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

The bill passed, as amended.

SB 12, AN ACT concerning civil procedure; relating to bankruptcy; exempt property; earned income tax credit, was considered on final action.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

The bill passed, as amended.

SB 34, AN ACT concerning driver's licenses; relating to habitual violators; motorized bicycles; amending K.S.A. 8-286 and 8-288 and K.S.A. 2010 Supp. 8-235 and 8-287 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Morris, Olson, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Bruce, Merrick, Ostmeyer, Pyle.

Absent or Not Voting: Donovan, Marshall.

The bill passed.

SB 37, AN ACT concerning crimes, punishment and criminal procedure; relating to sentencing; payment of fines; employment of county and city prisoners; amending K.S.A. 22-4603 and section 244 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections; also repealing K.S.A. 2009 Supp. 21-4603d, as amended by section 7 of chapter 101 of the 2010 Session Laws of Kansas, and K.S.A. 2010 Supp. 21-4603d, was considered on final action.

On roll call, the vote was: Yeas 32, Nays 6, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, Morris, Olson, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt A, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle.

Nays: McGinn, Merrick, Ostmeyer, Pyle, Schmidt V, Taddiken.

Absent or Not Voting: Donovan, Marshall.

The bill passed, as amended.

S SUB FOR HB 2014, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2011, June 30, 2012, and June 30, 2013, for state agencies; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, was considered on final action.

On roll call, the vote was: Yeas 21, Nays 17, Present and Passing 0, Absent or Not Voting 2.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Longbine, McGinn, Morris, Owens, Reitz, Schmidt A, Schmidt V, Schodorf, Teichman, Umbarger, Vratil.

Nays: Abrams, Apple, Bruce, Kelsey, King, Love, Lynn, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

Absent or Not Voting: Donovan, Marshall.

The substitute bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I voted against **S Sub for HB 2014**. It's not that I am in favor of a penalty from the Federal Government regarding the MOE of SpEd. Instead, it is the fact that we do not have enough information at this point in time. We have heard that we need to make up \$16M or \$25M or even \$13M.

I contend that we would have time to determine how much money is needed to maintain the MOE, and to appropriate that money on a later bill.

Therefore, I voted against **S Sub for HB 2014**. – STEVE ABRAMS

MR. PRESIDENT: **Senate Sub for HB 2014** appropriates \$32,146,014 SGF in excess of the governor's recommendation for FY 2011 and \$8,534,972 SGF in excess of the governor's recommendation for FY 2012. Additionally, the Ways and Means subcommittee reports already adopted by the full Ways and Means committee increase FY 2012 SGF spending \$1,137,235 beyond the governor's FY 2012 recommendation.

The governor's FY 2011 & FY 2012 budget recommendations leave the state of Kansas with an ending balance of \$7.5 million dollars.

When considering the actions of the full Ways and Means committee to this point along with the appropriations in this bill, together would cause the budget to have a \$34,318,221 negative ending balance.

This would require additional cuts in the FY 2012 budget of roughly 34 million dollars. To date I am unaware of any plan of how these cuts would be distributed among our state agencies. Until such a plan is developed I believe passage of **Senate Sub for HB 2014** in its present form is unwise. Therefore I vote NO on **Senate Sub for HB 2014**.--MARK TADDIKEN

Senators Bruce, Lynn and Petersen requested the record to show they concur with the "Explanation of Vote" offered by Senator Taddiken on **Senate Sub for HB 2014**.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 108** be amended on page 2, in line 6, by striking "country" and inserting "county"; and the bill be passed as amended.

Committee on **Public Health and Welfare** begs leave to submit the following report:

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

By the Governor:

Department of Health and Environment, Secretary: K.S.A. 2010 Supp. 75-5601

Robert Moser, serves at the pleasure of the Governor

Also, **SB 134** be amended on page 4, in line 19, by striking " and acts amendatory thereof or supplemental"; in line 20, by striking "thereto" and inserting ", prior to its repeal, or sections 36 through 64, 174, 210 or 211 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto"; On page 5, in line 3, before "section" by inserting "K.S.A. 21-3406, prior to its repeal, or"; in line 7, before "section" by inserting "K.S.A. 21-3406, prior to its repeal, or"; in line 30, before "section" by inserting "K.S.A. 21-3805, prior to its repeal, or"; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

SR 1815 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 15, 2011.

COMMITTEE OF THE WHOLE

On motion of Senator Jay Emler, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Kelsey in the chair.

On motion of Senator Kelsey the following report was adopted:

Recommended **SB 45**, **SB 58**, **SB 60**, **SB 62**, **SB 65** be passed.

SB 77 be amended by adoption of the committee amendments, be further amended by motion of Senator Wagle, on page 1, in line 27, by striking "not" and **SB 77** be passed as further amended.

A motion by Senator Holland to amend **SB 77** failed and the following amendment was rejected: on page 27, following line 11, by inserting:

"(3) A claimant shall become eligible to receive compensation for the waiting period of one week, pursuant to paragraph (1), upon completion of three weeks of unemployment consecutive to such waiting period.";

On page 28, in line 27, by striking all after "the" where it appears for the first time; in line 28, by striking all before "who" and inserting "individual"; in line 32, by striking all after "job"; by striking all in line 33; and in line 34 by striking all before the semicolon.

Upon the showing of five hands a roll call vote was requested:

On roll call, the vote was: Yeas 12, Nays 26, Present and Passing 0, Absent or Not Voting 2.

Yeas: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kultala, Petersen, Schmidt A, Schodorf, Steineger, Umbarger.

Nays: Abrams, Apple, Bruce, Brungardt, Emler, Huntington, Kelsey, King, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Pilcher-Cook, Pyle, Reitz, Schmidt V, Taddiken,

Teichman, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

A second motion by Senator Holland to amend **SB 77** failed and the following amendment was rejected: on page 28, in line 27, by striking "spouse of an individual who is a member of the armed"; in line 28, by striking all before "who" and inserting "individual"; in line 32, by striking all after "job"; by striking all in line 33; and by striking all in line 34 before the semicolon

SB 8 be passed over and retain a place on the calendar.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Emler an emergency was declared by a 2/3 constitutional majority, and **SB 45**, **SB 58**, **SB 60**, **SB 62**, **SB 65** and **SB 77** were advanced to Final Action and roll call.

SB 45, AN ACT concerning trusts; relating to certification of trust; amending K.S.A. 58a-1013 and repealing the existing section.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

The bill passed.

SB 58, AN ACT designating the junction of United States highway 24 and K-7 highway as the Representative Margaret Long interchange.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

The bill passed.

EXPLANATION OF VOTE

MR. PRESIDENT: I proudly vote "AYE" on **SB 58**. Representative Margaret Long, and her predecessor Representative Jim Long, remain stalwart champions on Kansas transportation and Kansas highway development. During my years in the Kansas House, much of my education and appreciation of, our stellar transportation system (which is one of the more highly ranked in our entire country) belongs to the Longs. This is a fitting tribute for our Legislature to honor their service to our state. —DAVID HALEY

SB 60, AN ACT concerning criminal procedure; relating to appeals; amending K.S.A. 22-3601 and repealing the existing section.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

The bill passed.

SB 62, AN ACT concerning civil procedure; relating to the Kansas standard asset seizure and forfeiture act; court costs; amending K.S.A. 2010 Supp. 60-4107 and 60-4109 and repealing the existing sections.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

The bill passed.

SB 65, AN ACT concerning health insurance; pertaining to review of health care decisions; amending K.S.A. 40-22a13, 40-22a14 and 40-22a15 and repealing the existing sections.

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

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan, Marshall.

The bill passed.

SB 77, AN ACT concerning the employment security act; creating an assessment for the payment of interest on advances received from the federal government; removing the waiting week extension; pertaining to benefits; amending K.S.A. 2010 Supp. 44-703, 44-704a, 44-705, 44-706, 44-710, 44-710a and 44-717 and repealing the existing sections.

On roll call, the vote was: Yeas 30, Nays 8, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Huntington, Kelsey, King, Longbine, Love, Lynn, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Pilcher-Cook, Reitz, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Hensley, Holland, Kelly, Kultala, Petersen, Pyle, Schmidt A, Steineger.

Absent or Not Voting: Donovan, Marshall.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 77**. Be reinstating the waiting week and deleting the trailing spouse clause for non-military families, \$13.5 million in needed unemployment benefits are being eliminated. By putting benefit checks in workers' hands immediately, we not only support workers' living costs during a period of unemployment, but we help stabilize the economy.

Eliminating the trailing spouse provision sends a terrible message to Kansans about the value we place on family and marriage. It is a step backward for thousands of Kansans trying to balance the needs of work with the needs of family.

In the vast majority of job transfers it is the working woman who follows her spouse to a new job. Consequently, elimination of benefit eligibility for relocating spouses will result in a serious gender gap in our unemployment insurance system.

This bill does nothing to solve the underlying unemployment issues facing our state. It just makes it harder for families to put food on the table, keep a roof over their head, and support their families. It makes the situation facing unemployed workers seem even more hopeless.--Anthony Hensley

On motion of Senator Jay Emler the senate adjourned until 2:30 p.m., Wednesday, February 16, 2011.

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

PAT SAVILLE, *Secretary of the Senate.*

