

Journal of the Senate

TWENTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, February 9, 2011, 2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with thirty-eight senators present.
Senator Donovan was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

As a Kansas Senator
I want to do my best
To represent my district
(And make a few requests)

Help me be a model
For my children and my spouse
That they will be proud of me
At work or in our house.

I want to use my talents, Lord
To accomplish while I'm here
All my responsibilities
Whether foggy or very clear.

Help me live up to
The standards You have set.
Let me never settle for
Things that I regret.

Constantly remind me, Lord,
That You are watching me,
And that you're expecting me
To be the best that I can be.

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 and concurrent resolution were introduced and read by title:

SB 152, AN ACT concerning wildlife; relating to hunting; amending K.S.A. 2010 Supp. 32-1002 and repealing the existing section, by Committee on Natural Resources.

SB 153, AN ACT concerning the low-income family postsecondary savings account incentive program; amending K.S.A. 2010 Supp. 75-650 and repealing the existing section, by Committee on Ways and Means.

SB 154, AN ACT concerning abstracters; relating to license fees; amending K.S.A. 58-2801 and repealing the existing section, by Committee on Ways and Means.

SB 155, AN ACT concerning school districts; relating to the assessed valuation of certain school districts, by Committee on Ways and Means.

SB 156, AN ACT concerning the Kansas arts commission; transferring the charge, care, management and control of the Hiram Price Dillon House to the commission; authorizing an agreement for the receipt, administration and investment of certain moneys for the benefit of the commission; prescribing certain powers, duties and functions for the commission; amending K.S.A. 75-3682 and K.S.A. 2010 Supp. 41-719 and 75-3683 and repealing the existing sections, by Joint Committee on State Building Construction.

SB 157, AN ACT concerning employment; relating to misclassification of employees; amending K.S.A. 2010 Supp. 44-766 and repealing the existing section, by Committee on Commerce.

SB 158, AN ACT concerning civil actions; relating to damages; enacting the full and fair noneconomic damages act; amending K.S.A. 60-3702 and repealing the existing section, by Committee on Utilities.

SB 159, AN ACT concerning crimes, punishment and criminal procedure; relating to parole and postrelease supervision for violent offenders and sex offenders; conditions; amending K.S.A. 2010 Supp. 22-3717 and repealing the existing section; also repealing K.S.A. 2010 Supp. 22-3717c, by Senator Pilcher-Cook.

SB 160, AN ACT concerning child support; relating to collection of support payments; amending K.S.A. 2010 Supp. 23-4,107 and 75-6202 and repealing the existing sections, by Senator Lynn.

SB 161, AN ACT concerning law enforcement; creating the uniform citizen contact data form, by Senator Haley.

SB 162, AN ACT concerning residential real estate sales contracts and certain disclosures, by Committee on Local Government.

SB 163, AN ACT concerning counties; dealing with county administrators; amending K.S.A. 19-3a02 and repealing the existing section, by Committee on Local Government.

SB 164, AN ACT concerning plastic bulk merchandise containers; relating

to sales; records; civil penalties, by Committee on Judiciary.

SB 165, AN ACT concerning abortion; relating to licensure of abortion clinics, by Senators Pilcher-Cook, Abrams, Bruce, Kelsey, Love, Lynn, Marshall, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pyle, Taddiken and Wagle.

SB 166, AN ACT concerning certain state officers and employees; restricting outside employment, by Senators Hensley, Francisco, Kelly and Kultala.

SB 167, AN ACT enacting the health care freedom act, by Senators Pilcher-Cook, Abrams, Apple, Bruce, Love, Lynn, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pyle and Taddiken.

SB 168, AN ACT concerning electioneering communications, by Senators Hensley, Faust-Goudeau, Francisco, Haley, Holland, Kelly and Kultala.

SB 169, AN ACT concerning elections; relating to election commissioners; amending K.S.A. 19-3419 and repealing the existing section, by Senators Hensley, Haley, Kelly and Kultala.

SB 170, AN ACT enacting the portable electronics insurance act, by Committee on Financial Institutions and Insurance.

SB 171, AN ACT concerning public works projects for state agencies; prescribing payment of minimum wages for work thereon and preferences for certain employees to work thereon, by Senators Hensley, Francisco, Holland and Kultala.

SB 172, AN ACT concerning state governmental ethics; relating to state officers and employees; relating to lobbyists; amending K.S.A. 46-232 and repealing the existing section, by Senators Hensley, Francisco, Kelly and Kultala.

SB 173, AN ACT concerning state educational institutions; relating to tuition and increases in the rate thereof, by Senators Hensley and Haley.

SENATE CONCURRENT RESOLUTION No. 1604—

By Senators Pilcher-Cook, Abrams, Bruce, Love, Lynn, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pyle, Steineger and Taddiken

A PROPOSITION to amend the constitution of the state of Kansas by adding a new article 16 thereto, concerning health care.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: The constitution of the state of Kansas is amended by adding a new article 16 thereto to read as follows:

"Article 16. – HEALTH CARE

“§1. **Health care.** (a) To preserve the freedom of Kansans to provide for their health care:

“(1) A law or rule shall not compel, directly or indirectly, any person, employer or health care provider to participate in any health care system or purchase health insurance.

“(2) A person or employer may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines nor prohibited from gaining state medical licensure, for accepting direct payment from a person or employer for lawful health care services.

“(b) Subject to reasonable and necessary rules that do not substantially limit a person’s options, the purchase or sale of private health insurance or the participation in private health care systems shall not be prohibited by law or rule.

“(c) This section does not:

“(1) Affect which health care services a health care provider or hospital is required to perform or provide.

“(2) Affect which health care services are permitted by law.

“(3) Prohibit care provided pursuant to the provisions relating to workers compensation.

“(4) Prohibit care provided pursuant to the provisions relating to state employee benefit programs.

“(5) Affect laws or rules in effect as of August 1, 2009.

“(6) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing or penalizing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services.

“(d) For the purposes of this section:

“(1) “Compel” includes penalties or fines.

“(2) “Direct payment or pay directly” means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service.

“(3) “Health care system” means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants.

“(4) “Lawful health care services” means any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services.

“(5) “Penalties or fines” means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or

any named fee with a similar effect established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this section.”

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

“Explanatory statement. The purpose of this health care freedom amendment is to preserve constitutionally the right and freedom of Kansans to provide for their health care. This proposition would not affect which health care services a health care provider or hospital is required to perform or provide; would not affect which health care services are permitted by law; would not prohibit care provided pursuant to the general provisions relating to workers compensation; would not prohibit care pursuant to the provisions relating to state employee benefit programs; would not affect laws or rules in effect as of August 1, 2009; or would not affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services. Nothing in this amendment is meant to discourage anyone from purchasing health insurance.

“A vote for this proposition would preserve constitutionally the right of a person, employer or health care provider to be free from laws or rules compelling participation in any health care system; preserve constitutionally the right of a person or employer to purchase lawful health care services directly from a health care provider; preserve constitutionally the right of a health care provider to accept direct payment from a person or employer for lawful health care services; and preserve constitutionally the right to have the ability to purchase or sell health insurance in private health care systems.

“A vote against this proposition would provide for no constitutional right of a person, employer or health care provider to be free from laws and rules compelling participation in any health care system; would provide for no constitutional right of a person or employer to purchase lawful health care services directly from a health care provider; would provide for no constitutional right of a health care provider to accept direct payment from a person or employer for lawful health care services; and would provide for no constitutional right to have the ability to purchase or

sell health insurance in private health care systems.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate, and two-thirds of the members elected (or appointed) and qualified to the House of Representatives shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2012 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Agriculture: **SB 148; ERO 40.**

Commerce: **SB 137, SB 140.**

Education: **SB 143, SB 144.**

Ethics and Elections: **SB 145.**

Federal and State Affairs: **SB 149; ERO 39.**

Financial Institutions & Insurance: **SB 136.**

Judiciary: **SB 135, SB 142, SB 146.**

Local Government: **SB 150.**

Public Health and Welfare: **SB 138, SB 139, SB 141.**

Transportation: **SB 151.**

Ways and Means: **SB 147.**

CHANGE OF REFERENCE

The Vice President withdrew **SB 121** from the Committee on **Ways and Means**, and referred the bill to the Committee on **Federal and State Affairs**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2001, HB 2014, HB 2020, HB 2033, HB 2049, HB 2056, HB 2057, HB 2088.**

The House concurs in Senate amendments to **HCR 5003.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2001, HB 2014, HB 2020, HB 2033, HB 2049, HB 2056, HB 2057, HB 2088 were thereupon introduced and read by title.

REFERENCE OF HOUSE BILLS

Vice President Vratil referred **HB 2014** to the Committee on **Ways and Means**.

CONFIRMATION 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 Administration:

Dennis Taylor, Secretary, serves at the pleasure of the Governor.

On roll call, the vote was: Yeas 34, Nays 1, Present and Passing 3, Absent or Not Voting 1.

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

Nays: Hensley.

Present and Passing: Francisco, Haley, Kultala.

Absent or Not Voting: Donovan.

The appointment was confirmed.

By the Governor:

On the appointment to the:

Department of Transportation:

Deb Miller, 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 1.

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

Absent or Not Voting: Donovan.

The appointment was confirmed.

By the Governor:

On the appointment to the:

Securities Commissioner:

Daniel Aaron Jack, 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 1.

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

Absent or Not Voting: Donovan.

The appointment was confirmed.

FINAL ACTION BILLS AND CONCURRENT RESOLUTIONS

SB 11, AN ACT concerning school districts; relating to transportation of pupils residing on the Leavenworth military reservation, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 1.

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

Absent or Not Voting: Donovan.

The bill passed.

SB 21, AN ACT concerning school districts; relating to school finance; amending K.S.A. 2010 Supp. 72-6441, 72-6449 and 72-6451 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 1.

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

Absent or Not Voting: Donovan.

The bill passed.

SB 35, AN ACT concerning civil procedure; relating to attorney-client privilege and work-product protection; amending K.S.A. 60-426 and K.S.A. 2010 Supp. 60-3003 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 1.

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

Absent or Not Voting: Donovan.

The bill passed.

SB 38, AN ACT concerning children; relating to permanency; priority of certain orders; amending K.S.A. 2010 Supp. 38-1116, 38-1121, 38-2201, 38-2203, 38-2262, 38-2284, 38-2304 and 60-1610 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz,

Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.
Absent or Not Voting: Donovan.
The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 24**, **SB 34** be passed.

Also **SB 12** be amended on page 1, in line 9, after "thereto." by inserting "An exemption pursuant to this section shall not exceed the maximum credit allowed to the debtor under section 32 of the federal internal revenue code of 1986, as amended, for the current tax year."; and the bill be passed as amended.

Committee on **Transportation** recommends **SB 58** be passed.

REPORT ON ENROLLED BILLS

SR 1811 reported correctly enrolled, properly signed and presented to the Secretary of the Senate February 9, 2011.

On motion of Senator Emler, the Senate adjourned until 2:30 p.m., Thursday, February 10, 2011.

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

PAT SAVILLE, *Secretary of the Senate.*

