

# Journal of the House

## FOURTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, January 15, 2015, 11:00 a.m.

The House met pursuant to adjournment with Speaker Merrick in the chair.

The roll was called with 117 members present.

Reps. Curtis, Goico, Henry, Hutton, Kelley, Kiegerl, Sawyer and Schwab were excused on excused absence by the Speaker.

### APPOINTMENT

Speaker Merrick announced the appointment of the Rev. Eunice Brubaker, Church of the Nazarene District Coordinator for Church Plants, Topeka, as Chaplain of the House.

Prayer by Chaplain Brubaker:

Lord God,  
Thank You for this another new beautiful day with sunshine  
(something we haven't seen much of lately),  
and a day where these leaders come to work together.  
As we remember the late Dr. Martin Luther King on his actual birthday,  
we are reminded of the wise words he often spoke:  
"If I cannot do great things, I can do small things in a great way."  
Help our leaders in everything they do and say,  
no matter how small, to do and say them in a great way.  
I also pray that as our leaders begin to make serious decisions  
that will affect the citizens of this state,  
they will follow and adhere to the following  
challenge that Dr. King gave:  
"On some positions, cowardice asks the question, is it expedient?  
And then expedience comes along and asks the question, is it politic?  
Vanity asks the question, is it popular?  
Conscience asks the question, is it right?  
There comes a time when one must take the position  
that is neither safe nor politic nor popular,  
but he or she must do it because conscience tells him or her it is right."  
Lord, may it be so with these ladies and gentlemen.  
Amen.

The Pledge of Allegiance was led by Rep. Clayton.

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were introduced and read by title:

**HB 2022**, AN ACT concerning law enforcement officers; relating to the office of sheriff; qualifications for office; amending K.S.A. 2014 Supp. 19-801b and repealing the existing section, by Committee on Judiciary.

**HB 2023**, AN ACT concerning legislative review of exceptions to open records; amending K.S.A. 2014 Supp. 45-229 and 60-3351 and repealing the existing sections, by Committee on Judiciary.

**HB 2024**, AN ACT concerning crimes and punishment; relating to domestic battery; amending K.S.A. 2014 Supp. 21-5414 and repealing the existing section, by Committee on Judiciary.

**HB 2025**, AN ACT concerning the Kansas law enforcement training act; amending K.S.A. 2014 Supp. 74-5616 and 74-5622 and repealing the existing sections, by Committee on Judiciary.

**HB 2026**, AN ACT concerning the state health care benefits program; relating to pharmacy benefits managers; requirements and fiduciary duties; audit of the pharmacy benefits management contract, by Committee on Federal and State Affairs.

**HB 2027**, AN ACT concerning education; creating the efficient operation of schools task force; relating to annual audits of school districts; relating to audits of the state department of education; amending K.S.A. 2014 Supp. 46-1226 and repealing the existing section; also repealing K.S.A. 2014 Supp. 46-1130, 46-1132 and 46-1133, by Committee on Education.

**HB 2028**, AN ACT concerning education; creating the Kansas education standards study commission, by Committee on Education.

**HB 2029**, AN ACT concerning domesticated deer; relating to identification of deer; amending K.S.A. 2014 Supp. 47-2101 and repealing the existing section, by Committee on Agriculture and Natural Resources.

**HB 2030**, AN ACT concerning agriculture; relating to the Kansas pet animal act; amending K.S.A. 47-1702, 47-1703, 47-1704, 47-1712, 47-1718, 47-1719, 47-1720, 47-1733 and 47-1734 and K.S.A. 2014 Supp. 47-1701, 47-1706, 47-1709, 47-1710, 47-1711, 47-1721, 47-1723, 47-1725, 47-1726 and 47-1731 and repealing the existing sections; also repealing K.S.A. 47-1717, 47-1732 and 47-1736, by Committee on Agriculture and Natural Resources.

**HB 2031**, AN ACT concerning school districts; relating to teacher training and student instruction; addressing child sexual abuse; establishing Erin's law, by Committee on Corrections and Juvenile Justice.

**HB 2032**, AN ACT relating to diabetes information reporting, by Committee on Health and Human Services.

HOUSE CONCURRENT RESOLUTION No. **HCR 5003**—

By Committee on Federal and State Affairs

**HCR 5003**, A PROPOSITION to amend section 3 of article 4 of the constitution of the state of Kansas, relating to the judiciary and recall elections.

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate 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: Section 3 of article 4 of the constitution of the state of Kansas is hereby amended to read as follows:

"Article 4. – ELECTIONS

"§ 3. **Recall of elected officials.** All elected public officials in the state, ~~except~~ *including* judicial officers, shall be subject to recall by voters of the state or political subdivision from which elected. Procedures and grounds for recall shall be prescribed by law."

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

"*Explanatory statement.* The purpose of this statement is to make all elected judicial officers subject to recall by voters in the same manner as all other elected public official of the state or political subdivisions.

"A vote in favor of the proposition would provide that all judges of the district court, court of appeals and justices of the supreme court would be subject to recall elections.

"A vote against the proposition would continue the current exclusion of all judges of the district court, the court of appeals and justices of the supreme court from recall elections."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate 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 election in November in the year 2016 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 were referred to committees as indicated:

Health and Human Services: **HB 2016, HB 2020.**

Insurance: **HB 2021.**

Judiciary: **HB 2017, HB 2018.**

Taxation: **HB 2019.**

## COMMUNICATIONS FROM STATE OFFICERS

From Gary Harshberger, Chair, Kansas Water Authority, 2015 Annual Report to the Governor and Legislature.

From Dale Dennis, Deputy Commissioner of Education, Division of Fiscal and Administrative Services, Kansas State Department of Education, Tax Credit for Low Income Students Scholarship Program, Legislative Report for January 2015.

From Debra L. Billingsley, Executive Secretary, Kansas Board of Pharmacy, pursuant to K.S.A. 65-4102(b), Report on Controlled Substances for Scheduling, Rescheduling or Deletion.

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

On motion of Rep. Vickrey, the House recessed until 6:00 p.m..

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#### EVENING SESSION

The House met pursuant to recess with Speaker Merrick in the chair.

It being the hour in accordance with **HCR 5001** to meet in joint session with the Senate to hear the message of the Governor, Reps. Corbet, Couture-Lovelady and Lusk escorted President Wagle and members of the Senate to seats in the House.

Reps. Highland, Lunn and Carmichael and Senators Knox and Kelly escorted the Supreme Court to seats in the House.

Reps. Kelly, Schwartz and Houston and Senators Pilcher-Cook and Haley escorted the Lieutenant Governor to a seat in the House.

Reps. Davis, Concannon and Wolfe Moore and Senators Masterson and Hawk escorted the Governor to the rostrum.

#### **Governor Sam Brownback's Complete Text of the State of the State**

Mr. Speaker, Madam President, , Legislators, Elected Officials, Cabinet Members, Justices of the Kansas Supreme Court, Leaders of Kansas sovereign Native American Nations, Lt. Governor and his wife Ruth, the first lady of Kansas, my wife Mary...My Fellow Kansans...

One person I want to recognize in particular is the new House Minority Leader, Tom Burroughs. Tom, welcome to leadership.

Good evening and welcome back.

Before I begin the State of the State in earnest this evening, I want to pay tribute to the men and women of our armed forces. The strength of Kansas is best represented by those who risk their lives to protect us.

Major General Paul Funk from Fort Riley currently is leading the fight against ISIS. So obviously he is not here with us tonight. Instead we are honored to recognize all the brave Kansans who serve through the presence of Brigadier General Eric Wesley and Command Sergeant Major Maurice Jackson of Fort Riley.

Please help me welcome and recognize them.

I am informed by the clerks that of the 165 current members of the Legislature, about 100 of them are new to the body since 2010.

That is to say, many of you have never had the opportunity as Legislators to hear a different Governor give a State of the State Speech.

And for that, I don't apologize.

But, I will keep this speech as short and concise as I can.

Throughout my career in public service, I have been driven by the belief that Government exists to serve the people. Those who lead...those who govern, must do so with courage and compassion. In that way, those we serve can live in freedom and dignity.

That belief continues to guide my actions today, as it did four years ago when I gave my first State of the State message.

At that time, we gathered to address the challenges confronting our state.

Two of the biggest were our economy and budget.

On that January night, four years ago, more than 100,000 Kansans were actively looking for work and could not find it. Kansas ranked near the bottom among US states in private sector job growth. Personal income growth was low and poverty was headed up.

From 1999 to 2009, the number of Kansans in private sector employment had actually dropped – actually dropped – while state general fund spending had grown by more than a third.

In Fiscal Year 2010, for the first and only time in Kansas history, the State General Fund ended the fiscal year in a negative status.

Our economic and fiscal course was clearly unsustainable. It was time for a change.

From this podium, I announced that the days of ever-expanding government were over.

And we went to work.

We reformed state government to better serve Kansans by eliminating, consolidating or privatizing multiple state agencies and redundant functions, and reduced the public sector workforce by more than three thousand positions.

We embarked on a budgetary course that saw State General Fund expenditures grow at a lower rate than each of the previous nine Governors, while continuing to support core government functions and serving Kansans.

With bipartisan support, we overhauled our state's economic development strategy, established rural opportunity zones, and strengthened KPERs.

Four years later, I submit these facts for your review.

Kansas has created more than 59,000 new private sector jobs. Our unemployment rate is tied for the tenth lowest in America and more Kansans are working today than ever in the history of the state.

Personal income is rising, we are addressing the causes of poverty and welfare rolls have been cut in half.

Thanks to the efforts of our teachers and parents, Kansas students score among the best in the country, record numbers of Kansans are enrolled in technical education and our institutions of higher education are global leaders in fields from animal health to aeronautics to the universal fight against cancer.

Mr. Speaker, Madam President, it is for these reasons and more that I can report to

you tonight that Kansas is on the rise, and the State of our State is STRONG.

As we have always known in Kansas, great achievements require hard work. It requires the courage to face our challenges head-on and find solutions that work for Kansans.

The goal of the Department for Children and Families is to be the agency of opportunity, helping Kansans move from poverty to prosperity.

One of our great successes has been the number of people who have left welfare and found work. We have seen more than a 50 percent decline in TANF recipients in the last four years.

Instead of welfare, we want Kansans to enjoy the dignity of work and build a better life for themselves and their families. This is to be celebrated.

Valerie Cahill is a single mother who was on public assistance. With the help of our Employment and Training program, Valerie is now earning full-time wages in the medical industry and is off welfare assistance.

Valerie and her son Cortez, are here with us tonight. Valerie, will you and your son please stand so we can congratulate you on the courage and perseverance that has allowed you to build a better life for you and your son.

We will continue to move forward, helping people move from dependence on the government to independence.

We will put forth programs that require more able-bodied welfare recipients to apply for work or work training as a condition of receiving the welfare benefit.

One of the key ways out of poverty and despair is through work. That brings hope and that brings a path forward.

To move forward, we need all of Kansas growing.

This includes our urban cores that in too many cases have seen their problems multiply and their solutions divide.

In the first term, we implemented Rural Opportunity Zones that this legislature passed. It has been a success. 77 counties have embraced it with more than 2,000 applications received – and more than a quarter of those are from out-of-state. People are coming to Kansas for opportunity and growth.

It is time to take this same successful concept to our urban core.

I am proposing that we provide the same growth tools to high poverty areas in Kansas City, Wichita and Topeka. The same requirements for local participation will exist as well.

This will help more Kansans succeed and will draw more people to our state.

Now, even as we celebrate our successes, we must acknowledge that the most recent data regarding state government revenue and expenditures present a clear challenge that must be addressed.

For the past several weeks, we have been in consultation with government, business and industry leaders regarding our shared fiscal concerns. They have been generous with their time and frank with their advice.

Tomorrow I will present to the legislature a proposed two-year budget that is in

balance – with revenues exceeding expenditures each year.

And we will continue our march to zero income taxes.

Because the states with no income tax consistently grow faster than those with high income taxes.

There may be some who consider this course too bold...well, I'm the sort of guy who would have sent Alex Gordon from third base.

I propose this budget as a starting point to your deliberations. I understand and appreciate that the "power of the purse" is yours and does not belong to any other branch of government.

In my travels around Kansas I've found what I expect most of you have during your visits with the people we serve.

Kansans are sensible, decent, compassionate, thoughtful people.

They prize liberty, celebrate achievement and recognize an obligation to their fellow man.

They want government to focus on its core functions, to perform them well, to provide quality services, good schools, good roads and low taxes.

Kansans understand the importance of living within our means and meeting our obligations.

Kansans know the importance of a promise whether to friends, family or a business. And recognizing that promise, they pay their debts on time and in full. The Kansas Constitution should reflect that as well.

I am proposing the Legislature pass a Constitutional Amendment and put it before Kansas voters stating that the debt of the state is a general obligation of the state and we will pay it first.

This is good policy for our state.

Those who make state policy in the people's name have to make the tough choices. Those who refuse, don't lead.

Everyone will be able to find things in the budget I put forth that they disagree with. I hope as you review the budget, you put forth what you would do to make it better.

But as we go about this work, please bear two things in mind.

First, the family budget is more powerful than the government budget.

Second, a growing economy that is adding private sector jobs and increasing personal income can fix a government budget.

A growing government budget cannot bring lasting prosperity to its citizens by appropriating ever more of their earnings.

If we could spend our way to paradise, we would already be there.

Forty Kansas Governors held office before the State General Fund Expenditures reached \$1 Billion for the first time.

The next four Governors saw that number hit \$6 Billion.

That government spending growth was not reflective of the trajectory of our population or of the economy. It was government getting too big too fast.

The era of ever expanding government is over, because it has to be

The major drivers in state spending increases are what you think they are: K-12 education, public pensions and Medicaid.

Over the past several years, in addition to providing medical care in war zones around the world, Lt Governor Colyer has led our efforts to improve services and control costs in Medicaid.

The results have been good.

Waiting lists are down and services are up. Costs are growing, but at a slower rate than before.

On pensions, we have enacted reform and succeeded in devoting considerably more resources to what was a badly underfunded system.

In 2010, according to the Pew Center, Kansas had the second worst funded pensions system among all the U.S. states.

Thanks to the reforms undertaken since, done with bipartisan support, our rankings have improved and we are now middle-of-the-pack.

Understand though, that the unfunded liability in KPERS vastly exceeds any issues with our year-to-year budget. It dwarfs every other item on the state balance sheet.

All of those truly interested in fiscal prudence should support putting our state retirement system on a sound long-term footing.

Now, on the matter of K-12 spending.

A majority of the projected shortfall we face is due to increases in K-12 spending since Fiscal Year 2014.

I want to repeat that.

A majority of the projected shortfall we face is due to increases in K-12 spending

For decades now, Kansas has struggled under a school finance formula which is designed not to be understood---to frustrate efforts at accountability and efficiency.

A formula designed to lock in automatic, massive increases in spending unrelated to actual student populations or improved student achievement.

A formula which calculates that we have added more than 100,000 new students to the public schools while the actual census has grown by a fraction of that number---an accounting scheme that claims cuts to per pupil spending even as budget increases dramatically outpace increases in student population.

Not surprisingly, that formula has been under litigation in Kansas for the past 40 years. Just within the last few weeks, the latest ruling was issued in a suit filed under the previous Administration.

In the words of that court ruling, "one cannot classify the school financing structure as reliably constitutionally sound."

I agree.

Friends, it is time for a new school finance formula.

That formula should reflect real-world costs and put dollars in classrooms with real students, not in bureaucracy and buildings and artificial gimmicks.

That formula should be about improving student achievement and school accountability, not bureaucratic games.

My suggestion is simple, and I believe necessary – a timeout in the school finance wars.

In this two-year budget, the Legislature should appropriate money directly to school districts, so it can be spent where it is needed most, and that's in the classroom.

At the same time, the Legislature should repeal the existing school finance formula and allow itself sufficient time to write a new modern formula that meets our needs for great 21<sup>st</sup> Century schools.

And as we go about that process, it should be accountable to local parents and voters, because here...the people rule.

Accountability. You have heard me say that we must be accountable with our budget and education policy.

That accountability should extend to how our elected officials and judiciary are selected.

Currently, most elected officials in Kansas are chosen in elections when the fewest voters participate.

In general, Spring elections see a mere fraction of the voters who participate in Fall elections...generally with about 10 percent of eligible voters coming to the polls in the Spring.

Yet that's when most of our elected officials are selected. That does not honor our values of wanting higher voter participation.

It is time to move local elections to the Fall.

It also is time we change the way we pick our Supreme Court.

Recently, the Legislature introduced a greater element of public accountability to judicial selection by reforming the process for selecting appellate judges in Kansas.

It is time for similar reforms to apply to the Kansas Supreme Court.

Currently, we have the least democratic system in America to select Supreme Court justices.

The Legislature should put before Kansas voters a proposed Constitutional amendment for a more democratic selection process. One either based on the federal model or providing for direct election of Supreme Court justices, as we did for the first 100 years of our history.

With the court involving itself in so many public policy issues, it is time the selection process be more democratic.

Now we turn to a subject that will directly affect the future of every single Kansan. And that is.... water.

In my first term I challenged my administration and the citizens of Kansas to develop a long-term vision for the future of the water supply in our state.

And you answered that challenge. Now it is time for us to act.

Water is an intensely passionate issue where local situations vary enormously.

We have not yet accomplished a plan that ensures adequate water supplies throughout our state for the next 50 years but this will happen before my second term is concluded.

When I began my comments this evening, I told you that throughout my career, I have been driven by a belief that we are here to serve others. It is a God-given responsibility that we, as elected officials must accept and act upon.

We are at our best when we stir within ourselves our better angels. When our hearts are tender to what God is tender to...the poor, the voiceless, the powerless.

We should see human life as sacred and recognize its immeasurable worth in every human condition.

Whether at the beginning of life or the end of life, Kansas is the most pro-life state in America. And we are not going back.

So let us be wise and loving in how we serve the people particularly those in the greatest need at the time of their greatest need.

We need a budget that is adequate and not pernicious.

We need social policies that are wise and helpful, and which lead people from dependence to independence.

We need strong, healthy marriages and families. As I said at the Inauguration, big government can never be big enough to replace the family.

And we need vision to pass on to our children and their children to come. A vision of Kansas that stands the test of time because it is built on truth.

So as we move forward in this legislative session, let us be wise and prudent and act in the way that the Ancients told us to. That is that our actions should be "first pure, then peaceable, gentle, open to reason, full of mercy and good fruits, impartial and sincere."

Thank you and may God grant us all grace, mercy and truth to carry out our duties.

On motion of Rep. Vickrey, the House adjourned until 8:00 a.m., Friday, January 16, 2015.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

