

Journal of the Senate

THIRTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 27, 2014, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with forty senators present.
Invocation by Father Don Davidson:

As our Olympic Athletes are welcomed home across the nation, let us consider what it took for them to achieve the status of “Olympian”, not alone earn a victory medal. Woven within the big picture are the ordinary human stories of people who gave of themselves for those to represent all of us; the families, the sacrifices and the whole communities. They are the ordinary human stories that weave their way inside every big picture and they are the stories that should influence how the big picture looks. Lord, please help our athletes know of the support of the proud people of our nation, and the hope for the future; pour out your blessing upon those who made their efforts possible. In your holy name we pray. Amen

The Pledge of Allegiance was led by President Susan Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 425, AN ACT concerning retirement and benefits; relating to the Kansas public employees retirement system and systems related thereto; interest credits on annuity savings and retirement annuity accounts; payment of annuity upon retirement; affiliation and membership of the department of corrections in the Kansas police and firemen's retirement system, security officers, employee and employer contributions; amending K.S.A. 2013 Supp. 74-49,306, 74-49,308 and 74-49,313 and repealing the existing sections, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **HB 2582**.

Assessment and Taxation: **HB 2456**.

Financial Institutions and Insurance: **SB 422**, **SB 424**; **HB 2687**.

Judiciary: **HB 2463**, **HB 2478**, **HB 2577**.

Local Government: **HB 2591**.

Natural Resources: **HB 2547**, **HB 2549**.

Public Health and Welfare: **HB 2561**.

Ways and Means: **SB 423; HB 2506, HB 2656.**

CHANGE OF REFERENCE

The President withdrew **SB 262** from the Committee on **Commerce**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 341, SB 369, SB 378** from the Committee on **Education**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 385** from the Calendar under the heading of **General Orders** and referred to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2456, HB 2463, HB 2478, HB 2506, HB 2547, HB 2549, HB 2561, HB 2582, HB 2591, HB 2577, HB 2656, HB 2687.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2456, HB 2463, HB 2478, HB 2506, HB 2547, HB 2549, HB 2561, HB 2582, HB 2591, HB 2577, HB 2656, HB 2687 were thereupon introduced and read by title.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 10, AN ACT concerning openness in government; amending K.S.A. 2013 Supp. 45-219, 46-1207a and 75-4318 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 33; Nays 7; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Shultz, Smith, Wagle.

Nays: Arpke, Kelly, McGinn, Pettey, V. Schmidt, Tyson, Wolf.

The bill passed, as amended.

SB 274, AN ACT concerning campaign finance; amending K.S.A. 25-4153b and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 31; Nays 6; Present and Passing 3; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Haley, Hawk, Hensley, Kelly, Pettey.

Present and Passing: Francisco, Holland, McGinn.

The bill passed, as amended.

EXPLANATION OF VOTE

Madam President: This bill was confusion from the beginning. Assigned to the Ethics and Elections Committee, misinformation and printed inaccuracies were disseminated by what should be neutral, accurate and credible sources and conferees; resulting in misleading and confusion many committee members on Ethics and

Election, including myself. Few knew exactly, or certainly ALL of, whom were targeted by **SB 274** based, in part, on printed charts which were only, (as we ALL know NOW) an “example” for part of what the bill purported to do. Sound confusing? It is...and was. Whatever the bill's nefarious intent, this bill should have been returned by the Committee of the Whole to the Ethics and Elections Committee to be worked for accuracy and clarity. Procedurally, it was sloppily presented, confusingly “worked” and unprofessionally presented. The Senate should return to our pride in producing well reviewed, unquestionable product. I cannot support less and nor should any of us. Madam President, I vote “No” on **SB 274**. —DAVID HALEY

Madam President: The Senate Democrats stand ready and willing to act on real campaign finance reform, and I already have a record of supporting such reform. But **SB 274** is not reform. It is punishment and it is nothing less than silencing the opposition. Proponents of the bill argue that it creates a “level playing field.” Yet, they receive limitless support from political action committees such as Secretary of State Kris Kobach’s Prairie Fire PAC, the Kansas Chamber PAC, Americans for Prosperity, Gov. Brownback’s Roadmap PAC, Kansas Club for Growth, and Kansans for a True Republican Majority. I find it amazing that they are worried about making things fair when they’re supported by dozens of PACs who receive thousands of dollars in contributions and can be used to advocate for candidates. If they’re seeking a target for reform, it’s time that they look in the mirror. I vote “No” on **SB 274**.—ANTHONY HENSLEY

Senators Faust-Goudeau, Hawk, Kelly and Pettey request the record to show they concur with the “Explanation of Vote” offered by Senator Hensley on **SB 274**

Madam President: I vote “Aye” on **SB 274**. Our form of representative government is supposed to be power arising from the bottom up, whereas a leadership PAC is counter to that principle. Leadership PACs are used by leadership members to reward or punish other members of their caucus in primary elections, which results in power coming down from the top. Such PACs serve only to prolong the power of leadership regimes in both parties. **SB 274** eliminates leadership PACs that the Legislature intended to be abolished 14 years ago. This bill is long overdue.—MITCH HOLMES

Senator Abrams, Knox and Lynn request the record to show they concur with the “Explanation of Vote” offered by Senator Holmes on **SB 274**.

SB 309, AN ACT concerning insurance for qualified professional associations; amending K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-2222 and repealing the existing sections, was considered on final action.

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

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

Present and Passing: Kelly.

The bill passed, as amended.

SB 311, AN ACT concerning civil procedure and civil actions; relating to noneconomic damages cap; expert or other testimony; collateral source benefits; amending K.S.A. 60-456, 60-457, 60-458, 60-19a02, 60-3801 and 60-3802 and repealing the existing sections; also repealing K.S.A. 60-3803, 60-3804, 60-3805, 60-3806 and 60-3807, was considered on final action.

On roll call, the vote was: Yeas 32; Nays 8; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey.

The bill passed, as amended.

EXPLANATION OF VOTE

Madam President: I vote "No" on **SB 311**. It is a misguided measure that changes a longstanding simple and fair premise: Those who cause harm to others must pay for the resulting damages. With this bill, victims get the short end of the stick. The cap only increases to \$100,000 over the next eight years. This does not keep pace with inflation. This cap increase isn't just miserly, it's pitiful. It needs to be at least \$500,000. Furthermore, eliminating the collateral source rule and the Frye standard are financial wins for wrongdoers and their insurance companies. Juries will be asked to focus on the victim's financial status while the wrongdoer's insurance remains secret. There is no doubt that this bill will force victims – responsible Kansans – to pay for injuries caused by someone else. This is wrong, and simply not a Kansas value. That is why I vote "No".—TOM HOLLAND

Senators Francisco, Haley, Hawk, Hensley and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Holland on **SB 311**.

SB 348, AN ACT concerning law enforcement officers; relating to the office of sheriff; qualifications for office; amending K.S.A. 2013 Supp. 19-801b and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, 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, Shultz, Smith, Tyson, Wagle, Wolf.

The bill passed.

SB 352, AN ACT concerning real estate appraisers; relating to licensing; compliance standards; amending K.S.A. 58-4121 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 28; Nays 12; Present and Passing 0; Absent or Not Voting 0.

Yeas: Bowers, Bruce, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, Knox, LaTurner, Longbine, Lynn,

McGinn, Melcher, Olson, Ostmeyer, Pettey, Powell, V. Schmidt, Shultz, Smith, Wagle, Wolf.

Nays: Abrams, Apple, Arpke, Denning, King, Love, Masterson, O'Donnell, Petersen, Pilcher-Cook, Pyle, Tyson.

The bill passed, as amended.

SB 357, AN ACT concerning wildlife, parks and tourism; relating to hunter education; amending K.S.A. 2013 Supp. 32-920 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, 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, Shultz, Smith, Tyson, Wagle, Wolf.

The bill passed.

SB 359, AN ACT enacting the successor corporation asbestos-related liability fairness act, was considered on final action.

On roll call, the vote was: Yeas 35; Nays 5; Present and Passing 0; Absent or Not Voting 0.

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

Nays: Francisco, Haley, Hawk, Hensley, Holland.

The bill passed, as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Apple the following report was adopted:

SB 273, SB 402, SB 403 be passed.

SB 312; HB 2488 be amended by the adoption of the committee amendments, and the bills be passed as amended.

HCR 5014 be adopted.

SB 310 be amended by adoption of the committee amendments, be further amended by motion of Senator Smith, on page 4, in line 3, by striking "The attorney general shall prosecute such"; by striking all in lines 4 and 5; in line 6, by striking all before the period and inserting "The court shall notify the attorney general of such request and the attorney general may prosecute such case", and **SB 310** be passed as further amended.

Sub SB 343 be amended by the adoption of the committee bill, recommending a substitute bill, be amended by motion of Senator Longbine, on page 1, by striking all in lines 18 through 20;

And by redesignating subsections accordingly, and **Sub SB 343** be passed as amended.

SB 381, SB 401 be passed over and retain a place on the calendar.

EMERGENCY FINAL ACTION

On motion of Senator Bruce an emergency was declared by a 2/3 constitutional majority and the following bills were advanced to final action and roll call.

SB 273, AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the rotary international license plate.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Haley, 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, Shultz, Smith, Tyson, Wagle, Wolf.

Present and Passing: Francisco.

The bill passed.

SB 310, AN ACT concerning grand juries; amending K.S.A. 2013 Supp. 22-3001, 22-3011 and 22-3015 and repealing the existing sections.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Haley, 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, Shultz, Smith, Tyson, Wagle, Wolf.

Present and Passing: Francisco.

The bill passed, as amended.

SB 312, AN ACT concerning criminal procedure; relating to discharge of persons not brought promptly to trial; decision and disposition of case on appeal; amending K.S.A. 22-3605 and K.S.A. 2013 Supp. 22-3402 and repealing the existing sections.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Haley, 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, Shultz, Smith, Tyson, Wagle, Wolf.

Present and Passing: Francisco.

The bill passed, as amended.

Sub SB 343, AN ACT concerning governmental ethics; relating to use of public funds for lobbying.

On roll call, the vote was: Yeas 28; Nays 10; Present and Passing 2; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Shultz, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Haley, Hawk, Hensley, Holland, Kelly, Kerschen, McGinn, Pettey, V. Schmidt.

Present and Passing: Francisco, Longbine.

The bill passed, as amended.

SB 402, AN ACT concerning the Kansas criminal justice information system committee; amending K.S.A. 2013 Supp. 74-5701, 74-5702, 74-5703, 74-5704 and 74-5706 and repealing the existing sections.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, 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, Shultz, Smith, Tyson, Wagle, Wolf.

The bill passed.

SB 403, AN ACT concerning civil procedure and civil actions; relating to writ of habeas corpus; abuser of writ; amending K.S.A. 2013 Supp. 60-1501 and repealing the existing section.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, 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, Shultz, Smith, Tyson, Wagle, Wolf.

The bill passed.

HB 2488, AN ACT concerning the Kansas electric transmission authority; purpose and composition of authority; creation of transmission advisory council; amending K.S.A. 2013 Supp. 74-99d01, 74-99d03, 74-99d04 and 74-99d07 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 74-99d09.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, 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, Shultz, Smith, Tyson, Wagle, Wolf.

The bill passed, as amended.

HCR 5014, A CONCURRENT RESOLUTION, urging the Department of State and the White House to approve the Presidential Permit application allowing the construction and operation of the TransCanada Keystone XL Pipeline between the United States and Canada in order to strengthen United States energy security, to provide for critical pipeline infrastructure, to achieve North American energy independence and to stimulate the American economy and create jobs.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau,

Fitzgerald, Haley, 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, Shultz, Smith, Tyson, Wagle, Wolf.

Nays: Francisco, Hawk.

And the concurrent resolution was adopted.

REPORT ON ENGROSSED BILLS

SB 360, SB 372; SCR 1619 reported correctly engrossed February 26, 2014.

SCR 1616 reported correctly engrossed February 27, 2014.

REPORT ON ENROLLED BILLS

SR 1784, SR 1791 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 27, 2014.

MESSAGE FROM THE HOUSE

Announcing adoption of **HCR 5030**.

On emergency motion of Senator Bruce, **HCR 5030** was adopted by voice vote.

On motion of Senator Bruce, the senate adjourned pro forma until 8:30 a.m. February 28, 2014.

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

□