

# Journal of the Senate

## TWELFTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, January 25, 2006—2:30 p.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with forty senators present.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

You have told us that "...the eyes of the Lord range throughout the earth to strengthen those whose hearts are fully committed to Him." (II Chronicles 16:9)

It's good to know You search the earth  
No place have you omitted,  
So that You can strengthen  
All those who are committed.

You strengthen legislators  
Who will not avoid a fight  
When undergoing siege  
Against what they know is right.

You strengthen legislators  
Who refuse to compromise  
When Your commands are disobeyed  
And truth is terrorized.

I thank You, Lord for strengthening them  
When on You they are calling—  
Keeping them from giving up;  
Keeping them from failing.

I pray in the name of Jesus Christ,

AMEN

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

**SB 439**, An act concerning calendar day compensation for members of the senate; relating to absences from senate sessions, by Committee on Ways and Means.

**SB 440**, An act concerning the admission of students to state educational institutions; amending K.S.A. 72-116 and repealing the existing section, by Committee on Ways and Means.

**SB 441**, An act concerning the Kansas offender registration act; providing for an annual driver's license or identification card; amending K.S.A. 2005 Supp. 8-243, 8-247, 22-4904 and 22-4905 and repealing the existing sections, by Senator Journey.

**SB 442**, An act concerning insurance; pertaining to allowing certain lienholders and mortgagees to be shown on the application for insurance; amending K.S.A. 40-955 and repealing the existing section, by Committee on Financial Institutions and Insurance.

**SB 443.** An act concerning property taxation; relating to exemptions; farm storage and drying equipment and hay storage structures; amending K.S.A. 79-210 and K.S.A. 2005 Supp. 79-213 and repealing the existing sections, by Committee on Assessment and Taxation.

**SB 444.** An act concerning income taxation; relating to net operating loss; amending K.S.A. 2005 Supp. 79-32,143 and repealing the existing section, by Committee on Assessment and Taxation.

**SB 445.** An act concerning civil procedure; relating to attorney fees; amending K.S.A. 60-2003 and repealing the existing section; also repealing K.S.A. 60-2006, by Committee on Judiciary.

**SB 446.** An act concerning eminent domain; relating to economic development; enacting the fairness in economic development act, by Committee on Judiciary.

**SB 447.** An act concerning elections; relating to full voter identification; amending K.S.A. 25-2354 and K.S.A. 2005 Supp. 25-1122, 25-1122d, 25-1123, 25-2908 and 25-3002 and repealing the existing sections, by Committee on Elections and Local Government.

**SB 448.** An act concerning recall petitions; pertaining to the time for filing court proceedings; amending K.S.A. 2005 Supp. 25-4308 and 25-4322 and repealing the existing sections, by Committee on Elections and Local Government.

**SB 449.** An act concerning commerce; enacting the video competition act; amending K.S.A. 2005 Supp. 17-1902 and repealing the existing section, by Committee on Commerce.

**SB 450.** An act concerning children; relating to child custody and residency; a material change of circumstances; amending K.S.A. 60-1610 and 60-1629 and repealing the existing sections, by Senator Brownlee.

**SB 451.** An act concerning medicaid; relating to the state medicaid plan; declaring certain acts to be crimes and providing penalties for violations; amending K.S.A. 2005 Supp. 21-3847 and 39-7,121d and repealing the existing sections, by Senators Huelskamp and Petersen.

SENATE CONCURRENT RESOLUTION No. 1616—

By Committee on Elections and Local Government

A PROPOSITION to amend the bill of rights of the constitution of the state of Kansas by adding a new section thereto, concerning eminent domain.

*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 bill of rights of the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: The bill of rights of the constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

“**§ 21. Eminent Domain.** (a) Private real property shall not be taken for public use without just compensation. Private real property may be taken only when necessary for the possession, occupation and enjoyment by the public at large, by public agencies, or by privately owned common carriers. For the purposes of this section, “privately owned common carriers” means commercial enterprises that hold themselves out to the public as offering to transport freight, persons, information or other such services for a fee.

(b) Whenever an attempt is made to take private real property for a use alleged to be public, the burden of establishing that the contemplated use is public shall be by clear and convincing evidence and shall remain on the condemner of the property.

(c) The power of eminent domain shall not be exercised to transfer real property from one private owner to another. Private real property taken for use by the public at large, by public agencies, or by privately owned common carriers, shall not thereafter be transferred to another private entity for a period of 10 years from the time of transfer of legal title from the original owner. If the real property is not used within 10 years, the real property, or a portion thereof, may be sold back to the owner, from whom the private real property was taken at the compensation determined at the time of the taking, or prorated for any portion thereof. If the

owner, from whom the private real property was taken, does not purchase the real property, then the taking entity may sell, or otherwise transfer, such real property to a third party.”

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

“*Explanatory statement.* There is currently no constitutional provision in the Kansas Constitution regarding the taking of private real property through the power of eminent domain.”

“A vote for this proposition would prohibit the government use of eminent domain for the purposes of taking private real property and transferring that private real property to another private entity.”

“A vote against this proposition would continue to allow the government use of eminent domain for the purposes of taking private real property and transferring that private real property to another private entity. If the taking entity wishes to sell the real property prior to the end of 10 years, the real property must be offered to the owner, from whom the private real property was taken, at the compensation determined at the time of the taking.”

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 2006, 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:

Assessment and Taxation: **SB 438**.

Education: **SB 436**.

Financial Institutions & Insurance: **SB 437**.

Judiciary: **SB 434, SB 435**.

Ways and Means: **SB 433**.

#### COMMUNICATIONS FROM STATE OFFICERS

##### KANSAS BUREAU OF INVESTIGATION

January 17, 2006

Larry Welch, Director of the Kansas Bureau of Investigation, has submitted the KBI Annual report for 2005.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

#### COMMITTEE OF THE WHOLE

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

On motion of Senator Schodorf the following report was adopted:

Recommended **SB 201; HB 2398** be passed.

**SB 326, SB 342, SB 372** be amended by adoption of the committee amendments, and the bills be passed as amended.

**SB 271** be amended by adoption of the committee amendments, be further amended by motion of Senator Umbarger as amended by Senate Committee, on page 4, in line 19, after “amount” by inserting “not exceeding \$50”; also in line 19, by striking all after “broker”; in line 20, by striking all before the period, and **SB 271** be passed as further amended.

**SB 327** be amended by adoption of the committee amendments.

Senator Wysong moved to amend the bill, as amended by Senate Committee, on page 1, in line 22, by striking the comma and inserting "and"; in line 23, by striking "and" where it appears for the last time; by striking all in line 24; in line 25, by striking all before "within" Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 30, Nays 8, Present and Passing 1, Absent or Not Voting 1.

Yeas: Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Emler, Huelskamp, Jordan, Journey, Kelly, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barone, Betts, Gilstrap, Goodwin, Haley, Hensley, Lee, Steineger.

Present and Passing: Francisco.

Absent or Not Voting: Donovan.

The motion carried and the amendment was adopted, and **SB 327** be passed as further amended.

**SB 200** be passed over and retain a place on the calendar.

#### REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** 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:

Credit Union Administrator: K.S.A. 17-2233

John P. Smith, term expires November 1, 2009

Committee on **Judiciary** recommends **SB 339** 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 **Transportation** recommends **SB 411** be passed.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Thursday, January 26, 2006.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

