

Journal of the House

TWENTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Tuesday, February 12, 2013, 11:00 a.m.

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

The roll was called with 124 members present.
Rep. Petty was excused on legislative business.

Prayer by guest chaplain, the Rev. Dr. David Hansen, Pine Valley Christian Church, Wichita, guest of Rep. Bridges:

In this Garden of Democracy,
in this House of the People,
we pray that government of the people,
 for the people,
 by the people,
will benefit all the people.
For you have shown us, O God,
what is required of us this day.

We pray that the women and men elected to
do the people's business
will seek justice, love mercy, act with kindness,
and be mindful of the needs of the children,
the elderly, the vulnerable, and all our neighbors.

We pray for Wayne Owen, our Sergeant-at-Arms who was
hospitalized last night. We pray for his healing and his recovery.
Amen.

The Pledge of Allegiance was led by Rep. Sutton.

PERSONAL PRIVILEGE

There being no objections, the following remarks of Rep. Finney are spread upon the Journal:

Multiple sclerosis (or MS) is a chronic, unpredictable neurological and often disabling disease that attacks the central nervous system (CNS), which is made up of

the brain, spinal cord, and optic nerves. It disrupts the flow of information between an individual's body and brain.

Symptoms may be mild, such as numbness in the limbs, or severe, such as paralysis or loss of vision. The progress, severity and specific symptoms of MS are unpredictable and vary from one person to another.

MS affects an estimated 2.5 million worldwide, 400,000 in the United States and over 4,400 people living with MS in Kansas. It is often first diagnosed in individuals aged 20-50 and is the most common neurological disease leading to disability in young adults.

The National MS Society's Mid America Chapter mobilizes people and resources to drive research for a cure and to address the challenges of everyone affected by MS. Their MS Activists are here in the Capitol today, many of them wearing the color orange. They will be hosting a lunch and conducting legislator visits to discuss issues of importance to people living with MS in Kansas.

As a member of their Wichita Board of Directors, I am pleased that they are here today and ask each of you to welcome them.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

HB 2294, AN ACT concerning the Kansas uniform securities act; amending K.S.A. 17-12a302, 17-12a402 and 17-12a411 and repealing the existing sections, by Committee on Financial Institutions.

HB 2295, AN ACT concerning the department of health and environment; relating to the water pollution control permit system; creating the water program management fund; amending K.S.A. 2012 Supp. 65-166a and repealing the existing section, by Committee on Energy and Environment.

HB 2296, AN ACT concerning campaign finance; relating to uses of campaign funds; amending K.S.A. 2012 Supp. 25-4157a and repealing the existing section, by Committee on Appropriations.

HB 2297, AN ACT concerning school districts; relating to school finance litigation, by Committee on Education Budget.

HB 2298, AN ACT concerning crimes, criminal procedure and punishment; relating to interference with law enforcement; relating to giving a false alarm; amending K.S.A. 2012 Supp. 21-5904 and 21-6207 and repealing the existing sections; also repealing K.S.A. 2012 Supp. 21-5904a, by Committee on Corrections and Juvenile Justice.

HOUSE CONCURRENT RESOLUTION No. **HCR 5011**—
By Committee on Appropriations

A CONCURRENT RESOLUTION to stop Kansas participation in the expansion of medicaid services.

WHEREAS, Article I § 3 of the Kansas Constitution provides: **Executive power of governor.** "The supreme executive power of this state shall be vested in a governor, who shall be responsible for the enforcement of the laws of this state.";

WHEREAS, Article II §§ 1 and 24, respectively, of the Kansas Constitution provides:

Legislative power. "The legislative power of this state shall be vested in a house of representatives and senate.";

Appropriations. "No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law.";

WHEREAS, The federal government entices the state of Kansas to participate in the expansion of medicaid services as a provision of the federally mandated patient protection and affordable care act;

WHEREAS, The expansion of medicaid services in Kansas with federal funds as provided for in the patient protection and affordable care act will commit future Kansas Legislatures and the citizens of Kansas to share the cost in future years;

WHEREAS, The federal government commits to funding the expansion of medicaid for a period of three years at 100% and subsequent years at 90% or less but does not guarantee they will not stop this funding without notice while requiring the state to commit to providing full funding should federal funding stop;

WHEREAS, The federal government further obligates the state to fully fund the medicaid expansion should federal funds cease;

WHEREAS, The state's share of future cost of medicaid services cannot accurately be predicted or forecast;

WHEREAS, The policy to expand or not expand medicaid services of Kansas is a legislative function;

WHEREAS, The Kansas legislature has not been afforded the opportunity to consider the financial weight and responsibility of expanded medicaid services and its impact on future budgets and appropriations;

WHEREAS, The state's participation will commit future Legislatures to unknown financial obligations without their consent;

WHEREAS, The state's participation in the expansion of medicaid exceeds the statutory limitations for appropriations as outlined in K.S.A. 46-155, and amendments thereto. Except as provided in K.S.A. 40-3405 and 75-4704b, and amendments thereto, no item of appropriation, or combination of items of appropriation for the same purpose, shall be for a period greater than one ensuing fiscal year in addition to the current fiscal year, except that in the case of capital improvements, an item of appropriation, or combination of items of appropriation, for the purpose of completing construction of a project may be for any period not exceeding the three ensuing fiscal years in addition to the current fiscal year;

WHEREAS, It is the duty of the Kansas legislature to enact new law, levy taxes and appropriate funds for the obligations of the state;

WHEREAS, There are no provisions for future legislatures to opt out of the state's shared cost from the expansion of medicaid;

WHEREAS, Every reasonable consideration of the federal government's current debt obligation would suggest revenue is insufficient to expand its role in financing the expansion of medicaid except with fiat, which devalues the real property and earnings of Kansans, endangers the financial health and welfare of Kansas residents and lays an unacceptable burden on future generations;

WHEREAS, In a press release by the governor on Tuesday, August 9, 2011, regarding his returning of the federal early innovator grant (EIG) the governor stated, "There is much uncertainty surrounding the ability of the federal government to meet its already budgeted future spending obligations. Every state should be preparing for

fewer federal resources, not more." We agree with the governor's assessment; and

WHEREAS, The governor of the State of Kansas must respect the constitutional authority of the legislature to determine the policy and laws of the state and to appropriate funds and levy taxes to satisfy the obligations of the state: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the governor of the state of Kansas may not obligate the state to future cost associated with the expansion of medicaid without the expressed consent of the Kansas legislature.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Appropriations: **HB 2290, HB 2293.**

Corrections and Juvenile Justice: **HB 2288.**

Education: **HB 2289.**

Education Budget: **HB 2282.**

Elections: **HB 2291.**

General Government Budget: **HB 2287.**

Health and Human Services: **HB 2283.**

Insurance: **HB 2284.**

Judiciary: **HB 2292.**

Taxation: **HB 2285, HB 2286.**

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2015, AN ACT concerning domestic relations; relating to marital property; amending K.S.A. 2012 Supp. 23-2601 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 116; Nays 8; Present but not voting: 0; Absent or not voting: 1.

Yeas: Alcalá, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, Dierks, Doll, Dove, Edmonds, Esau, Ewy, Finch, Finney, Frownfelter, Gandhi, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Huebert, Hutton, Jennings, Johnson, Jones, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Peterson, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Campbell, DeGraaf, Dillmore, Edwards, Garber, Howell, Kahrs, Schwab.

Present but not voting: None.

Absent or not voting: Petty.

The bill passed.

EXPLANATION OF VOTE

MR. SPEAKER: This legislation impedes creditors in their right to collect legal debt and places the burden on creditors to prove that the conveyance of a gift is fraudulent. Public policy has long held this exception to protect creditors from fraudulent conveyances. In addition, it undermines the marriage covenant. Marriage is a special relationship like none other. Typical marriage vows include the words, “for better, for worse, for richer, for poorer.” By removing this exception in the law, it creates an undue burden on creditors, undermines the institution of marriage, and weakens the marriage commitment. I vote no on **HB 2015**. -- MARK KAHRs, JIM HOWELL, RANDY GARBER, JOE EDWARDS

HB 2034, AN ACT concerning criminal procedure; relating to the use of tracking devices by law enforcement; relating to search warrants; amending K.S.A. 22-2503 and 22-2506 and K.S.A. 2012 Supp. 22-2502 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Alcalá, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Peterson, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Petty.

The bill passed, as amended.

HB 2081, AN ACT concerning civil procedure; relating to the forfeiture of instrumentalities of a crime; amending K.S.A. 2012 Supp. 60-4104 and 60-4105 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Alcalá, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Dillmore, Doll, Dove, Edmonds, Edwards, Esau, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grant, Grosserode, Hawkins, Hedke,

Henderson, Henry, Hermanson, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Montgomery, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Peterson, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Petty.

The bill passed, as amended.

On motion of Rep. Vickrey, the House resolved into the Committee of the Whole, with Rep. Henry in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Henry, Committee of the Whole report, as follows, was adopted:

Recommended that **HB 2114**, **HB 2041** be passed.

Committee report to **HB 2065** be adopted; also, on motion of Rep. Rubin be amended on page 1, in line 19, by striking "subsections" and inserting "subsection"; also in line 19, by striking "(1) and"; in line 20, by striking "(a)(2)";

On page 2, in line 41, by striking the semicolon and inserting a period; and **HB 2065** be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Education Budget** recommends **HB 2109** be passed.

Committee on **Elections** recommends **HB 2130** 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 **Elections** recommends **HB 2095** be amended on page 1, in line 31, by striking the first "four" and inserting "eight"; also in line 31, by striking the second "four" and inserting "eight"; and the bill be passed as amended.

Committee on **Pensions and Benefits** recommends **HB 2213** be amended on page 6, in line 1, by striking "interest in"; in line 3, after "shall" by inserting "be eligible to"; also in line 3, after "receive" by inserting ", upon attainment of age 55,"; and the bill be passed as amended.

Committee on **Pensions and Benefits** recommends **HB 2228** be amended on page 5, in line 14, after the stricken material, by inserting "Notwithstanding the provisions of this subsection, no participating employer shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on April 1, 2013, and ending on June 30, 2013."; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2057** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the

consent calendar.

Upon unanimous consent, the House referred back to the regular business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were thereupon introduced and read by title:

HB 2299, AN ACT concerning crimes, criminal procedure and punishment; relating to assault; relating to battery; relating to law enforcement officers; amending K.S.A. 2012 Supp. 21-5111, 21-5412 and 21-5413 and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

HB 2300, AN ACT concerning counties; authorizing term limits for members of the board of county commissioners; amending K.S.A. 2012 Supp. 19-202 and repealing the existing section, by Committee on Local Government.

HB 2301, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; interest credits and annuity interest rate; amending K.S.A. 2012 Supp. 74-49,306, 74-49,308 and 74-49,313 and repealing the existing sections, by Committee on Pensions and Benefits.

HB 2302, AN ACT concerning the Kansas department of health and environment; relating to drug screening, criminal history record check and fingerprinting of certain persons and employees, by Committee on Health and Human Services.

HB 2303, AN ACT concerning driving under the influence; relating to driver's license fees; driving under the influence equipment fund; amending K.S.A. 2012 Supp. 8-240, 8-241, 8-267 and 75-5660 and repealing the existing sections, by Committee on Health and Human Services.

HB 2304, AN ACT concerning the air quality fee fund; relating to the transfer of permit and approval fees; amending K.S.A. 65-3008 and 65-3024 and repealing the existing sections, by Committee on Energy and Environment.

HB 2305, AN ACT concerning the Kansas storage tank act; relating to secondary containment of underground storage tanks; amending K.S.A. 2012 Supp. 65-34,102 and 65-34,103 and repealing the existing sections, by Committee on Energy and Environment.

HB 2306, AN ACT concerning schools; relating to courses for instruction; pertaining to science, by Committee on Education.

HB 2307, AN ACT concerning high school athletes; relating to cheerleading; amending K.S.A. 2012 Supp. 72-136 and repealing the existing section, by Committee on Education.

HB 2308, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; definition of compensation; employment after retirement; amending K.S.A. 2012 Supp. 74-4902, 74-4914 and 74-4937 and repealing the existing sections, by Committee on Education.

HB 2309, AN ACT concerning veterans; relating to driver's licenses and nondriver identification cards; authorizing the director of vehicles to provide information to certain requesting parties; amending K.S.A. 2012 Supp. 8-243, 8-1324 and 74-2012 and repealing the existing sections, by Committee on Veterans, Military and Homeland

Security.

HB 2310, AN ACT concerning the highway advertising control act; amending K.S.A. 2012 Supp. 68-2232, 68-2233 and 68-2234 and repealing the existing sections, by Committee on Transportation.

HB 2311, AN ACT concerning motor vehicles; relating to registration fees, delinquency of payment; amending K.S.A. 8-1,102 and K.S.A. 2012 Supp. 8-135, 8-135c, 8-143 and 8-198 and repealing the existing sections, by Committee on Transportation.

HB 2312, AN ACT concerning the Kansas uninsurable health insurance plan act; pertaining to the lifetime limit; amending K.S.A. 2012 Supp. 40-2124 and repealing the existing section, by Committee on Insurance.

HB 2313, AN ACT concerning governmental ethics; relating to rural water districts; amending K.S.A. 75-4301a and repealing the existing section, by Committee on Elections.

HB 2314, AN ACT concerning ethics; dealing with lobbyists and state officers and employees; amending K.S.A. 46-237 and 46-269 and K.S.A. 2012 Supp. 46-237a and repealing the existing sections, by Committee on Elections.

HB 2315, AN ACT concerning real property; relating to trespass and liability; exceptions, by Committee on Commerce, Labor and Economic Development.

REPORT ON ENGROSSED BILLS

HB 2034, HB 2081 reported correctly engrossed February 11, 2013.

On motion of Rep. Vickrey, the House adjourned until 11:00 a.m., Wednesday, February 13, 2013.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

