

Journal of the Senate

THIRTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, January 28, 2016, 2:30 p.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 40 senators present

President Wagle introduced guest chaplain, Reverend Jeff Clinger, Topeka First United Methodist Church, Topeka, who delivered the following invocation:

God of all people and all places, we are privileged to bow before You this afternoon as Kansans. We are grateful for the heritage of our great state. We are grateful for the privilege of living as citizens of this country. We are grateful for the goodness of all of Your creation. We confess to You, O God, that all too often we let our agendas overshadow Your will for us. We confess to You, O God that all too often our divisions define us; we are liberal and conservative, Republican and Democrat, Wildcat and Jayhawk and Shocker. Help us remember, this day and always, that before the various loyalties and allegiances we claim, You claim us. Help us remember that we are Yours. Help us remember that we are created in Your image. Help us remember that we are brothers and sisters. Help us remember that we are more alike than different. Help us remember that we are called to use the gifts we have been for the good of all Your people. We pray these things, as grateful citizens of Kansas, and of Your glorious creation as a whole. In Your Holy Name, Amen.

President Wagle introduced the Topeka High School Madrigals who performed the National Anthem and Kansas State song, Home on the Range.

The Pledge of Allegiance was led by President Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 381, AN ACT concerning insurance; relating to certain health benefit plans; prescription drug refills, by Committee on Financial Institutions and Insurance.

SB 382, AN ACT repealing K.S.A 8-1107; eliminating the requirement that certain notices, publications and affidavits be filed with the county clerk by a person providing wrecker or towing service, by Committee on Transportation.

SB 383, AN ACT concerning elections; relating to voter registration; allowing voter registration on election days; amending K.S.A. 2015 Supp. 25-2311, 25-2316c and 25-3602 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 384, AN ACT concerning wildlife, parks and tourism; relating to the nongame and endangered species act; amending K.S.A. 32-958, 32-960a and 32-961 and repealing the existing sections, by Committee on Ways and Means.

SB 385, AN ACT concerning hospitals; relating to vaccination prior to patient discharge, by Committee on Public Health and Welfare.

SB 386, AN ACT relating to diabetes information reporting, by Committee on Public Health and Welfare.

SB 387, AN ACT concerning financial institutions; relating to certain savings account promotions; state bank commissioner; credit union administrator, by Senators Bruce, Bowers and Wilborn.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Corrections and Juvenile Justice: **SB 374**, **SB 375**, **SB 376**.

Federal and State Affairs: **SB 379**.

Financial Institutions and Insurance: **SB 369**, **SB 370**.

Judiciary: **SB 377**, **SB 378**.

Public Health and Welfare: **SB 371**, **SB 372**.

Transportation: **SB 373**.

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 Lynn in the chair.

On motion of Senator Lynn the following report was adopted:

HB 2449 be passed.

CONSIDERATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the Senate for confirmation were considered.

Senator Bruce moved the following appointments be confirmed as recommended by the Committees on Commerce and Confirmation Oversight.

By the Governor

On the appointment to the:

State Board of Regents:

Dennis Mullin, Term ends June 30, 2019

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

State Board of Regents:

David Murfin, Term ends June 30, 2019

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

State Board of Regents:

Daniel Thomas, Term ends June 30, 2019

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

Kansas Development Finance Authority:

Chris Donnelly, Term ends January 15, 2017

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

State Lottery Commission:

Catherine Moyer, Term ends March 15, 2019

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

State Lottery Commission:

Alana Roethle, Term ends March 15, 2019

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

Kansas Public Employees Retirement Board of Trustees:

Michael Rogers, Term ends January 15, 2019

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

Kansas Racing and Gaming Commission:

Donald Brownlee, At the pleasure of the governor

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

Kansas Racing and Gaming Commission:

Jan Kessinger, Term ends January 15, 2019

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

State Board of Tax Appeals:

Devin Sprecker, Term ends January 15, 2016

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

State Civil Service Board:

Raymond Melugin, Term ends March 15, 2018

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

By the Governor

On the appointment to the:

Department of Commerce:

Antonio Soave, At the pleasure of the governor

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

Yeas: Abrams, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The appointment was confirmed.

FINAL ACTION ON CONSENT CALENDAR

SB 319 and **SB 321**, having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 319, AN ACT concerning civil procedure for limited actions; relating to venue under the small claims procedure act; amending K.S.A. 61-2708 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, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The bill passed.

SB 321, AN ACT concerning probate; relating to filing of wills; amending K.S.A. 2015 Supp. 59-618a 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, Arpke, Baumgardner, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Bruce an emergency was declared by a 2/3 constitutional majority, and **HB 2449** was advanced to Final Action and roll call.

HB 2449, AN ACT concerning the judicial branch; relating to severability of the provisions of 2015 House Bill No. 2005, chapter 81 of the 2015 Session Laws of Kansas; repealing K.S.A. 2015 Supp. 20-1a18.

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

Yeas: Abrams, 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, Smith, Tyson, Wagle, Wilborn, Wolf.

Nays: Baumgardner.

The bill passed.

EXPLANATION OF VOTE

Madam President: As predicted, the bill passed by this body in 2014 was lawsuit inducing and potentially unconstitutional; the concern expressed in an editorial published by a respected Kansas newspaper, that the bill in 2015 "...it risks both the balance of powers and the ability of the State's judiciary to function..." has rung true. I respect and have sworn to uphold Kansas' and the United States' three branches of government, Executive, Legislative and Judicial, as provided for in the Constitutions of both. The 2014 bill that tied judicial funding to policy initiatives when the Legislature (over my objection then too) took away the Supreme Court's power to appoint chief district judges or to then directly control their appropriations. In 2015 a bill once again showed blatant disrespect for our State's Constitution. We should insure that the Judiciary has both funding and independence (see Explanation of Vote; Senate Journal, page 819, from May 31, 2015.) Accordingly, as both the ranking member of Senate Judiciary and but one of only three lawyers in this Chamber of forty members, I am pleased to vote on **HB 2449** to eliminate the non-severability clause in **HB 2005** passed in 2015.—DAVID HALEY

REPORTS OF STANDING COMMITTEES

Committee on **Commerce** 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:

Member, Employment Security Board of Review: K.S.A. 44-709(f)

Valorie L. Jacobs, for a term of four years

Committee on **Utilities** recommends **SB 318** be passed.

On motion of Senator Bruce, the senate adjourned pro forma until 8:00 a.m. January 29, 2016.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

