

Journal of the Senate

TWENTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, February 12, 2014, 2:30 p.m.

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

Almighty and everlasting God, creator of all, we come to you this day in prayer for the continuing deliberations of this legislature, its members and staff. Today we thank you for those who protect us, keeping us safe at the doors and providing help in time of need. The work of those who give us security is not for everyone, the training and practice is not always enjoyable. Yet, when needed, they are with us. Thank you Lord for those who serve and protect us in this chamber, in this building, in this community, state and nation. Please keep them under your watchful eye. 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 386, AN ACT concerning health insurance; relating to covered dental services; insurance payments; assignment of benefits, by Senator Bowers.

SB 387, AN ACT concerning the Kansas open records act; relating to public records; commercial use; amending K.S.A. 2013 Supp. 45-230 and repealing the existing section, by Committee on Financial Institutions and Insurance.

SB 388, AN ACT concerning the continuation of health insurance for certain emergency personnel, by Committee on Ways and Means.

SB 389, AN ACT concerning the Kansas family law code; relating to domestic case management; amending K.S.A. 2013 Supp. 23-3507, 23-3508, 23-3509 and 38-2223 and repealing the existing sections, by Committee on Judiciary.

SB 390, AN ACT concerning school districts; relating to the school facilities weighting; transferring funds to the supplemental general state aid account of the state general fund; amending K.S.A. 2013 Supp. 72-6441 and repealing the existing section, by Committee on Federal and State Affairs.

SB 391, AN ACT concerning the drug screening program for members of the legislature; relating to effect of positive test; substance abuse treatment program; compensation and expenses; amending K.S.A. 2013 Supp. 75-4362 and repealing the existing section, by Senator Hensley.

SCR 1618 – A PROPOSITION to amend article 15 of the constitution of the state of Kansas by adding a new section thereto, authorizing the legislature to permit the conduct of charitable raffles or other forms of charitable gaming by certain nonprofit organizations, by Committee on Federal and State.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture: **SB 380**.

Assessment and Taxation: **SB 379**.

Education: **SB 373, SB 376, SB 378**.

Ethics and Elections: **SB 383**.

Federal and State Affairs: **SB 375, SB 381, SB 382, SB 384, SCR 1617**.

Judiciary: **SB 377**.

Transportation: **SB 385**.

Utilities: **SB 374**.

CHANGE OF REFERENCE

The President withdrew **SB 251** from the Committee on Ways and Means, and rereferred the bill to the Committee on Financial Institutions and Insurance.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2418, HB 2429, HB 2446, HB 2453, HB 2488**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2418, HB 2429, HB 2446, HB 2453, HB 2488 were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Bruce, Abrams, Apple, Arpke, Bowers, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettet, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wagle and Wolf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1782—

A RESOLUTION congratulating and commending the Seeker class,
2015 graduating class of the Kansas Academy of Mathematics and Science.

WHEREAS, The Legislature of the state of Kansas enacted legislation in 2006 authorizing the establishment of the Kansas Academy of Mathematics and Science to promote mathematics and science education, increase retention of intellectual capital and promote economic development; and

WHEREAS, The Legislature of the state of Kansas approved five years of funding for the Kansas Academy of Mathematics and Science in 2008; and

WHEREAS, Fort Hays State University is a forward-thinking liberal and applied arts university, and is recognized internationally for offering more than 60 degrees in a

technology-rich environment. Fort Hays State University aggressively seeks innovative solutions to meet the educational needs of Kansans and enhance the economic future of the state; and

WHEREAS, In 2007, the State Board of Regents selected Fort Hays State University as the site to host the Kansas Academy of Mathematics and Science; and

WHEREAS, Fort Hays State University was able to establish the Kansas Academy of Mathematics and Science in a single year, allowing Kansas to become the 16th state in the country with an academic early-entry-to-college program offering a unique residential learning experience for high achieving high school juniors and seniors who are academically talented in science and mathematics; and

WHEREAS, The Kansas Academy of Mathematics and Science provides a unique, hands-on rigorous research environment with Ph.D. faculty that focuses on academics, research, leadership development and civic engagement allowing Fort Hays State University to cultivate future citizen- leaders; and

WHEREAS, Graduates of the Kansas Academy of Mathematics and Science receive a high school diploma and 68 hours of college credit; and

WHEREAS, The 2015 graduates of the Kansas Academy of Mathematics and Science are: Lucas Barnes, Topeka; Jonithan Bennett, Junction City; Alyssa Brecheisen, Lyndon; Cheyenne Carlson, Paxico; Minsoo Choi, South Korea; Adele Coultis, Topeka; Cooper Cummings, Derby; Patrick Duensing, Topeka; Kaitlyn Emerson, Topeka; Kayce Feldkamp, Seneca; Seonyeong Ha, South Korea; Yeongsu Han, South Korea; Logan Heinrichs, Ulysses; Payton Jellison, Protection; Gregory Kenyon, Topeka; Victoria Kist, Holton; Tayler Kriss, Emporia; Tuan Le, Liberal; Xining Li, China; Xiaoying Lin, China; Tammy Nguyen, Russell; Tanner Reece, Topeka; Adan Rosales, Liberal; Evan Shanelec, Lyons; Wenkai Shu, China; MaRyka Smith, Hoyt; Noah Stapleton, Wichita; Matthew Townsley, Haysville; Xiao Wang, China; Zhong Yang, China; Shan Zhong, China: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the 2015 graduates of the Kansas Academy of Mathematics and Science. We wish them continued success in their academic and personal pursuits and encourage them to use their significant gifts to improve the future of their home state; and

Be it further resolved: That the members of the Kansas Senate express gratitude to the educators and support staff who, through their own dedication and commitment to excellence in education in the fields of mathematics and science, have brought this program to fruition through the successes of each graduating class. Their efforts are helping to forge the future for the state of Kansas; and

Be it further resolved: That the Secretary of the Senate shall send 37 enrolled copies of this resolution to the director of the Kansas Academy of Mathematics and Science, including 31 for forwarding to each of the 2015 graduates of the Kansas Academy of Mathematics and Science and six copies for the director of the Kansas Academy of Mathematics and Science.

On emergency motion of Senator Bruce **SR 1782** was adopted unanimously.

Also introduced was Ron Keller, Director of Programming, Fort Hays State University.

All guests were honored with a standing ovation.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 54, AN ACT concerning the state board of technical professions; amending K.S.A. 74-7001, 74-7004, 74-7005, 74-7007, 74-7010, 74-7019, 74-7024, 74-7032, 74-7033, 74-7035, 74-7038, 74-7039, 74-7040 and 75-5802 and K.S.A. 2013 Supp. 19-216c, 19-1401a, 72-6760d, 74-7003, 74-7009, 74-7013, 74-7021, 74-7022, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7034, 74-7036, 74-7046, 74-99b16, 75-1251, 75-37,142, 76-786 and 76-7,126 and repealing the existing sections; also repealing K.S.A. 74-7037 and 74-7042 and K.S.A. 2013 Supp. 74-7041, was considered on final action.

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, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, V. Schmidt, Shultz, Smith, Tyson, Wagle, Wolf.

Nays: Knox, Pyle.

The bill passed, as amended.

SB 99, AN ACT concerning lobbyists; regarding definitions; amending K.S.A. 46-222 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, as amended.

SB 254, AN ACT concerning certain administrative rules and regulations; relating to the medical assistance recovery program; relating to the children's health insurance program; amending K.S.A. 38-2002 and K.S.A. 2013 Supp. 39-709 and repealing the existing sections, 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 256, AN ACT concerning criminal procedure; relating to appeals; costs charged by attorney general; amending K.S.A. 22-3612 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 258, AN ACT concerning the Kansas juvenile justice code; relating to time limitations; sex crimes; amending K.S.A. 2013 Supp. 38-2303 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 265, AN ACT concerning income tax; relating to homestead refund; income defined, eligibility; amending K.S.A. 2013 Supp. 79-32,263 and 79-4502 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 1; Present and Passing 0; 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.

Nays: Francisco.

The bill passed, as amended.

SB 266, AN ACT concerning severance tax; relating to tax payment and return filing date; amending K.S.A. 79-4220 and 79-4221 and repealing the existing sections, 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 269, AN ACT concerning the rules of evidence; relating to erroneous admission of evidence and timely objection; amending K.S.A. 60-404 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 38; Nays 1; 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, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson,

Wagle, Wolf.

Nays: Pettey.

Present and Passing: Francisco.

The bill passed.

EXPLANATION OF VOTE

Madam President: There is need to clarify the timely objection rule, but that clarification needs to offer guidance as to what is sufficient to be considered a timely objection. This bill does not change the rule in any meaningful way. I vote NO on **SB 269**.—PAT PETTEY

SB 272, AN ACT concerning wildlife, parks and recreation; relating to controlled shooting areas; amending K.S.A. 32-945 and repealing the existing section, 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, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wagle, Wolf.

Present and Passing: Love.

The bill passed, as amended.

SB 276, AN ACT concerning wildlife; enacting the state sovereignty over non-migratory wildlife act, was considered on final action.

On roll call, the vote was: Yeas 30; Nays 10; 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, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Shultz, Smith, Tyson, Wagle, Wolf.

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

The bill passed, as amended.

EXPLANATION OF VOTE

Madam President, I vote NO on **SB 276**. I understand that there is concern regarding the possible listing of the Lesser Prairie Chicken as a threatened species under the federal Endangered Species Act by the US Fish and Wildlife Service. I am pleased that the Kansas Department of Wildlife, Parks and Tourism has responded appropriately by working on a voluntary range-wide mitigation plan with wildlife officials in four other states in an effort to develop a plan that could supplant the listing. The action that the Senate is taking on this bill could endanger those efforts. I also suggest, as I attempted to do with an amendment that failed, that if the Senate believes it necessary to block federal law, we could ask the Attorney General to address our concerns in court. I believe that would be a much more appropriate way to question the constitutionality of the federal action. Most importantly, Kansans have expressed interest in maintaining

quality habitat for wildlife and this action may indicate we are not listening to that concern. Senator Marci Francisco—**MARCI FRANCISCO**

Senator Hawk requests the record to show that he concurs with the "Explanation of Vote" offered by Senator Francisco on **SB 276**.

Madam President: I vote no on **SB 276** because it will lead to expensive litigation and cost our state money in trying to supersede the Federal Endangered Species Act. Wildlife officials have already worked on a five state Lesser Prairie Chicken Rangewide Conservation Plan. The end result of the work will be to ensure the lesser prairie chicken is not listed on the threatened and endangered species list. I heard in the debate we should determine these issues individually as a state. If this is the case, why did we sue Colorado for water that belonged to us? Why are we suing Nebraska for not sending us the quality of water we deserve? We acknowledge that water is a shared resource that doesn't stop at state lines, but somehow this bill argues that the Lesser Prairie Chicken does. You would think the bird wouldn't be losing so many numbers if it was smart enough to read the state lines on a map.—**CAROLYN MCGINN**

Senators Kelly and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator McGinn on **SB 276**.

HB 2296, AN ACT concerning campaign finance; relating to uses of campaign funds; amending K.S.A. 25-4157 and K.S.A. 2012 Supp. 25-4157a and repealing the existing sections, 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, as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Ethics and Elections** recommends **SB 98** be amended on page 1, in line 23, by striking "\$50" and inserting "\$100"; also on page 1, following line 35, by inserting:

"Sec. 2. K.S.A. 25-4173 is hereby amended to read as follows: 25-4173. Every candidate for state or local office who intends to expend or have expended on such person's behalf an aggregate amount or value of less than ~~\$500~~ \$1,000, exclusive of such candidate's filing fee, and who intends to receive or have received on such person's behalf contributions in an aggregate amount or value of less than ~~\$500~~ \$1,000 in each of the primary and the general elections shall file, not later than the ninth day preceding the primary election, an affidavit of such intent with the secretary of state for state offices. In the case of a candidate for a local office, such affidavit also shall be filed with the county election officer of the county in which the name of the candidate is on the ballot. No report required by K.S.A. 25-4148, and amendments thereto, shall be required to be filed by or for such candidate.";

Also on page 1, in line 36, by striking "is" and inserting "and 25-4173 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "25-904" by inserting "and 25-4173"; also in line 2, by striking "section" and inserting "sections"; and the bill be passed as amended.

Also, **SB 156** be amended on page 1, in line 6, by striking "2012" and inserting "2013"; in line 13, by striking "\$2,000" and inserting "\$3,000"; in line 18, by striking "\$500" and inserting "\$750"; in line 22, by striking "\$1,500" and inserting "\$2,000"; in line 25, by striking "\$1,000" and inserting "\$1,500";

On page 2, in line 27, by striking "\$2,000" and inserting "\$3,000"; in line 32, by striking "\$500" and inserting "\$750"; in line 34, by striking all after "senator; in line 35, by striking "education, \$1,000" and inserting ", \$2,000"; following line 36, by inserting:

"(4) For the office of member of the state board of education, \$1,500 for each primary election (or in lieu thereof a caucus or convention of a political party).";

On page 3, following line 4, by inserting:

"Sec. 2. K.S.A. 46-237 is hereby amended to read as follows: 46-237. (a) Except as provided by this section, no state officer or employee, candidate for state office or state officer elect shall accept, or agree to accept any (1) economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of ~~\$40~~ \$60 or more in any calendar year or (2) hospitality in the form of recreation having an aggregate value of ~~\$100~~ \$150 or more in any calendar year from any one person known to have a special interest, under circumstances where such person knows or should know that a major purpose of the donor is to influence such person in the performance of their official duties or prospective official duties.

(b) Except as provided by this section, no person with a special interest shall offer, pay, give or make any (1) economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of ~~\$40~~ \$60 or more in any calendar year or (2) hospitality in the form of recreation having an aggregate value of ~~\$100~~ \$150 or more in any calendar year to any state officer or employee, candidate for state office or state officer elect with a major purpose of influencing such officer or employee, candidate for state office or state officer elect in the performance of official duties or prospective official duties.

(c) No person licensed, inspected or regulated by a state agency shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of ~~\$40~~ \$60 or more in any calendar year to such agency or any state officer or employee, candidate for state office or state officer elect of that agency.

(d) Hospitality in the form of food and beverages is presumed not to be given to influence a state officer or employee, candidate for state office or state officer elect in the performance of official duties or prospective official duties, except when a particular course of official action is to be followed as a condition thereon.

(e) Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to: (1) Any contribution reported in compliance with the campaign finance act; or (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business.

(f) No state officer or employee shall accept any payment of honoraria for any speaking engagement except that a member of the state legislature or a part-time officer or employee of the executive branch of government shall be allowed to receive reimbursement in the preparation for and the making of a presentation at a speaking

engagement in an amount fixed by the commission prior to the acceptance of the speaking engagement. Nothing in this section shall be construed to prohibit the reimbursement of state officers and employees for reasonable expenses incurred in attending seminars, conferences and other speaking engagements.

(g) The provisions of this section shall not be applicable to or prohibit the acceptance of gifts from governmental agencies of foreign nations except that any gift accepted from such foreign governmental agency, having an aggregate value of ~~\$100~~ \$150 or more, shall be accepted on behalf of the state of Kansas.

(h) No legislator shall solicit any contribution to be made to any organization for the purpose of paying for travel, subsistence and other expenses incurred by such legislator or other members of the legislature in attending and participating in meetings, programs and activities of such organization or those conducted or sponsored by such organization, but nothing in this act or the act of which this act is amendatory shall be construed to prohibit any legislator from accepting reimbursement for actual expenses for travel, subsistence, hospitality, entertainment and other expenses incurred in attending and participating in meetings, programs and activities sponsored by the government of any foreign nation, or any organization organized under the laws of such foreign nation or any international organization or any national, nonprofit, nonpartisan organization established for the purpose of serving, informing, educating and strengthening state legislatures in all states of the nation, when paid from funds of such organization and nothing shall be construed to limit or prohibit the expenditure of funds of and by any such organization for such purposes.";

Also on page 3, in line 5, by striking "2012" and inserting "46-237 and K.S.A. 2013"; also in line 5, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "finance" by inserting "and governmental ethics"; in line 2, after "senators;" by inserting "increasing gift allowances;"; also in line 2, by striking "2012" and inserting "46-237 and K.S.A. 2013"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

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 **Financial Institutions and Insurance** recommends **SB 315, SB 321** be passed.

SB 299 be amended on page 2, in line 1, after "loan" by inserting "bank"; in line 38, after "loan" by inserting "bank"; and the bill be passed as amended.

Committee on **Utilities** recommends **SB 308, SB 337** be passed.

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:

Recommended: **SB 287, SB 288** be passed.

SB 255, SB 270 be amended by the adoption of the committee amendments, and the bills be passed as amended.

The committee report of **HB 2389** recommending a **S Sub HB 2389** be adopted, and the substitute bill be passed.

A motion by Senator Haley to amend **S Sub HB 2389** failed and the following amendment was rejected: on page 1, following line 7, by inserting:

"New Section 1. (a) As used in this section, "claimant" means the heirs, legal representatives or estate of a person convicted of capital murder as defined in K.S.A. 2013 Supp. 21-5401, and amendments thereto, and executed pursuant to the provisions of article 40 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, who was wrongfully convicted of such crime.

(b) A claimant may bring an action in an appropriate state court seeking damages from the state pursuant to this section and shall be entitled to damages from the state if such claimant establishes the following by clear and convincing evidence:

(1) The person convicted and executed did not commit the crime which resulted in such conviction and execution;

(2) the person convicted and executed did not commit or suborn perjury, fabricate evidence or by their own conduct cause or bring about their conviction and execution. Neither a confession or admission later found to be false shall constitute committing or suborning perjury, fabricating evidence or causing or bringing about such conviction and execution under this subsection; and

(3) the person convicted and executed did not plead guilty to the crime which resulted in such conviction and execution.

(c) The action shall be brought by the claimant within a period of two years after execution of the person convicted of capital murder. The action shall be accompanied by a statement of the facts concerning the claim for damages, verified in the manner provided for the verification of complaints in civil actions.

(d) (1) A claimant entitled to damages pursuant to subsection (b) shall be awarded damages in the amount of \$5,000,000.

(2) The court may order that the award be paid as an annuity with a payout over a maximum period of 20 years. The court shall consider the best interests of the claimant in making such determination.

(3) Damages awarded pursuant to this section shall be paid from the state general fund.

(e) In addition to the damages awarded pursuant to subsection (d), the claimant shall be entitled to receive reasonable attorney fees and costs related to the litigation. Such fees and costs shall be paid from the state general fund.

(f) Any award of damages to such claimant in an action against the state or any political subdivision thereof or against any employee of the state or any political subdivision thereof with respect to the same subject matter shall be offset by any award of damages awarded under this section.

(g) The provisions of this section shall apply to any claimant seeking damages related to an execution occurring on or after July 1, 2014.;"

And by renumbering sections accordingly;

On page 1, in the title, in line 2; after "to" by inserting "wrongful conviction and execution;"

On the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 9; Nays 31; Present and Passing 0; Absent or Not Voting 0.

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

Nays: 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.

EXPLANATION OF VOTE

Mr. Chairman: I vote no on the Haley amendment on **S Sub HB 2389** that statutorily values the life of a wrongly executed person. I do not believe that the Legislature can place a value on the life of a person. This award is best left to a jury. —
JEFF LONGBINE

A motion by Senator Pettey to amend **S Sub HB 2389** failed and the following amendment was rejected: on page 4, by striking lines 41 through 43;

REPORT ON ENROLLED BILLS

SR 1780, SR 1781 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 12, 2014.

On motion of Senator Bruce, the Senate adjourned until 2:30 p.m., Thursday, February 13, 2014.

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

