

Journal of the Senate

TWENTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 11, 2021, 2:30 p.m.

The Senate was called to order by Vice President Wilborn.
The roll was called with 39 senators present.
Senator Estes was excused.
Invocation by Reverend Cecil T. Washington:

"A Prayer for God's Will and God's Way!"
Matthew 6:9-13, Luke 11:1-4

Lord, realizing that prayer brings us from the everyday routine of life into a spiritual awareness of Your presence, we come today repeating the prayer that was taught to the Disciples in Matthew:9-13.

Our Father which art in Heaven,
Hallowed be thy Name.
Thy kingdom come.
Thy will be done on earth, as it is in Heaven.
Give us this day our daily bread.
And forgive us our trespasses,
as we forgive those who trespass against us.
Lead us not into temptation,
But deliver us from the evil one.

For thine is the kingdom, the power, and the glory, forever, Amen!

The Pledge of Allegiance was led by Vice President Wilborn.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 218, AN ACT concerning the uniform consumer credit code; relating to consumer loans; providing restrictions and requirements for certain alternative small installment loans; requiring lender reporting; amending K.S.A. 16a-2-308, 16a-2-401, 16a-2-404 and 16a-2-501 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 219, AN ACT concerning real estate brokers and salespersons; relating to the definition of broker; licensure; requiring licensing for certain patterns of business; exemptions thereto; applications of licensure provisions to trusts; granting the Kansas real estate commission authority to assess civil fines and issue cease and desist orders and subpoenas; amending K.S.A. 58-3036 and 58-3065 and K.S.A. 2020 Supp. 58-

3035, 58-3037, 58-3042 and 74-4202 and repealing the existing sections, by Committee on Commerce.

SB 220, AN ACT concerning crimes, punishment and criminal procedure; relating to battery; increasing the penalty for battery against a utility worker; amending K.S.A. 2020 Supp. 21-5413 and repealing the existing section, by Committee on Judiciary.

SB 221, AN ACT concerning taxation; relating to income tax credits for education expenses; allowing a follow the student tax credit, by Committee on Education.

SB 222, AN ACT concerning property taxation; relating to valuation of property; excluding hypothetical leased fee in the determination of fair market value; amending K.S.A. 79-503a and repealing the existing section, by Committee on Ways and Means.

SB 223, AN ACT concerning eminent domain; relating to the conduct of carbon dioxide in pipes; amending K.S.A. 17-618 and repealing the existing section, by Committee on Ways and Means.

SB 224, AN ACT concerning railroads; establishing a maximum train length allowed to be operated in Kansas; providing penalties for violations, by Committee on Ways and Means.

SB 225, AN ACT concerning retirement and pensions; relating to the Kansas police and firemen's retirement system; providing affiliation of the Kansas department of wildlife, parks and tourism for membership of certain law enforcement officers and employees; establishing employee and employer contributions, by Committee on Ways and Means.

SB 226, AN ACT concerning sales taxation; relating to exemptions; providing an exemption for area agencies on aging; amending K.S.A. 79-3606 and repealing the existing section, by Committee on Ways and Means.

SB 227, AN ACT concerning health and healthcare; relating to oral health; providing dental benefits for medicaid enrollees; making technical corrections to the dental practices act; amending K.S.A. 65-1456 and repealing the existing section, by Committee on Public Health and Welfare.

SB 228, AN ACT concerning sales and compensating use taxation; relating to the collection and remittance of taxes; allowing for the retention of taxes by retailer on movie ticket and concession sales, by Committee on Assessment and Taxation.

SB 229, AN ACT concerning civil actions; relating to actions for wrongful conviction and imprisonment; providing for payment of interest; directing the attorney general to file certain collateral actions; amending K.S.A. 2020 Supp. 60-5004 and repealing the existing section, by Committee on Judiciary.

SB 230, AN ACT concerning deprivation of rights under color of law; creating the crime of deprivation of rights under color of law; authorizing a civil cause of action; requiring restitution; amending K.S.A. 2020 Supp. 22-3424 and repealing the existing section, by Committee on Judiciary.

SB 231, AN ACT concerning crimes, punishment and criminal procedure; relating to hate crimes; increasing penalties for nondrug felony offenses motivated entirely or in part by the race, color, religion, ethnicity, national origin, gender identity or sexual orientation of the victim; amending K.S.A. 2020 Supp. 21-6804 and 21-6815 and repealing the existing sections, by Committee on Judiciary.

SB 232, AN ACT concerning education; providing for COVID-19 hazard pay for teachers; making and concerning appropriations for the fiscal years ending June 30, 2021, and June 30, 2022, for the department of education, by Committee on Education.

SB 233, AN ACT concerning sales taxation; relating to returns and payment of tax by retailers; increasing sales tax collection thresholds for time to file returns and payment; amending K.S.A. 79-3607 and repealing the existing section, by Committee on Assessment and Taxation.

SB 234, AN ACT concerning property taxation; relating to valuation of certain mobile homes and manufactured homes; requiring use of the same valuation methodology therefor; amending K.S.A. 79-340 and repealing the existing section, by Committee on Assessment and Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture and Natural Resources: **HB 2102**.

Assessment and Taxation: **SB 202, SB 216, SB 217**.

Commerce: **SB 203, SB 213, HB 2112**.

Education: **SB 208, SB 215**.

Federal and State Affairs: **SB 201, SB 209, SB 210; HB 2005**.

Financial Institutions and Insurance: **SB 199; HB 2072**.

Judiciary: **SB 204, SB 205, SB 206, SB 214; HB 2030, HB 2075**.

Public Health and Welfare: **SB 200, SB 207, SB 211, SB 212; HB 2062**.

Transportation: **HB 2167**.

CHANGE OF REFERENCE

An objection having been made to **SB 59, SB 65** appearing on the **Consent Calendar**, the President directed the bill be removed and placed on the calendar under the heading of **General Orders**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2014, HB 2063, HB 2064, HB 2081**.

Announcing passage of **HB 2050, HB 2074, HB 2103, HB 2109, HB 2134**.

Announcing passage of **SB 15**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2014, HB 2050, HB 2063, HB 2064, HB 2074, HB 2081, HB 2103, HB 2109, HB 2134 were thereupon introduced and read by title.

On motion of Senator Suellentrop, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with Vice President Wilborn in the chair.

COMMITTEE OF THE WHOLE

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

On motion of Senator Petersen the following report was adopted:

SB 61 be passed.

SB 52, SB 66, SB 88 be passed over and retain a place on the calendar.

An amendment was offered on **SB 61** by Senator Holscher. A ruling of the chair was requested as to the germaneness to the bill. The Chair of the Rules Committee ruled the amendment not germane.

Senator Holscher challenged the ruling of the chair.

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

On roll call, the vote was: Yeas 27; Nays 12; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Dietrich, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pyle, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Doll, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Pettey, Pittman, Sykes, Ware.

Absent or Not Voting: Estes.

The ruling of the chair was sustained.

Motions by Senator Petty to amend **SB 61** failed.

EXPLANATION OF VOTE

Mr. Chairman: I vote "NO" on affirming the ruling of the Rules Committee on finding the amendment proposed by the Senator from Johnson on inclusion of all categories of students as not germane to the bill. I protest this oversimplistic bully pulpit of the majority, when not wishing to debate potentially "controversial" language, suggest that the language is not germane. Such a sad and democratically-deadening process appears to more frequently manifest itself in this Chamber, in the Committee of the Whole, and even in certain standing Committees; as, coincidentally, it was misused in Judiciary just today. It is my earnest hope that this newfound trend will abate and that the majority will show more compunction in debating divergent issues and cease from this seemingly lazy ("uh, not germane") alternative.—DAVID HALEY

President Ty Masterson assumed the chair.

CONSIDERATION OF APPOINTMENTS

In accordance with Senate Rule 55, the following appointments submitted by the Governor to the Senate for confirmation were considered.

Senator Suellentrop moved the following appointments be confirmed as recommended by the **Committees on Assessment and Taxation** and **Public Health and Welfare**.

By the Governor

On the appointment to the:

State Board of Tax Appeals, Chief Hearing Officer

Thomas Browne, Term ends January 15, 2025

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson,

Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The appointment was confirmed.

By the Governor

On the appointment to the:

University of Kansas Hospital Authority, Member

David Dillon, Term ends March 15, 2025

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The appointment was confirmed.

By the Governor

On the appointment to the:

State Long Term Care Ombudsman, Ombudsman

Camille Russell, Term ends March 15, 2024

On roll call, the vote was: Yeas 38; Nays 0; Present and Passing 1; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Ware, Warren, Wilborn.

Present and Passing: Tyson.

Absent or Not Voting: Estes.

The appointment was confirmed.

FINAL ACTION ON CONSENT CALENDAR

SB 4, SB 56, SB 68, SB 69 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 4, AN ACT concerning crimes, punishment and criminal procedure; relating to unlawfully tampering with electronic monitoring equipment; modifying criminal penalties; amending K.S.A. 2020 Supp. 21-6322 and repealing the existing section.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The bill passed.

SB 56, AN ACT concerning human trafficking; relating to notice offering help to victims of human trafficking; requiring certain businesses and public places to post such notice; amending K.S.A. 75-759 and repealing the existing section.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The bill passed.

SB 68, AN ACT concerning motor vehicles; relating to distinctive license plates; establishing a fee for firefighter license plates; amending K.S.A. 2020 Supp. 8-1,155 and repealing the existing section.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The bill passed.

SB 69, AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the love, Chloe foundation license plate.

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

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Suellentrop an emergency was declared by a 2/3 constitutional majority, and **SB 61** was advanced to Final Action and roll call.

SB 61, AN ACT concerning education; relating to the tax credit for low income students scholarship program act; expanding student eligibility for the program; amending K.S.A. 2020 Supp. 72-4352, 72-4354 and 72-5178 and repealing the existing sections.

On roll call, the vote was: Yeas 23; Nays 14; Present and Passing 2; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Bowers, Claeys, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Masterson, O'Shea, Olson, Peck, Petersen, Pyle, Steffen, Straub,

Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Dietrich, Doll, Faust-Goudeau, Francisco, Hawk, Holland, Holscher, Longbine, McGinn, Pettey, Pittman, Sykes, Ware.

Present and Passing: Billinger, Haley.

Absent or Not Voting: Estes.

The bill passed.

EXPLANATION OF VOTE

Mr. President: Equal access to education creates stronger communities, attracts businesses, and develops a well-prepared workforce. This Legislature is intimately familiar with the consequences of under-funding our public schools – so why are we trying to repeat our failed history? The changes made to this bill take the focus off of at-risk children and allow private schools to hand-pick their students. And they get to do so with little accountability to the state taxpayers. I cannot support this bill which leaves our public schools with even fewer resources to help struggling students and sets us up for continued litigation by jeopardizing the constitutional funding of our schools.—

DINAH SYKES

Senators Corson, Holscher and Pettey request the record to show they concur with the “Explanation of Vote” offered by Senator Sykes on **SB 61**.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 49** be amended on page 1, in line 7, by striking "2041" and inserting "2024"; in line 23, by striking "2041" and inserting "2024"; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 90, SB 91, SB 124** be passed.

Committee on **Financial Institutions and Insurance** recommends **SB 86** be passed.

Committee on **Judiciary** recommends **SB 60, SB 103, SB 107** be passed.

Committee on **Public Health and Welfare** recommends **SB 77, SB 120** be passed.

Committee on Public Health and Welfare 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:

Public Member, University of Kansas Hospital Authority: K.S.A. 76-3304

Kevin Lockett, to fill a term expiring on March 15, 2023

Committee on **Transportation** recommends **SB 67** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

On motion of Senator Suellentrop, the senate adjourned pro forma until 2:30 p.m. February 12, 2021.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

