

# Journal of the Senate

FORTIETH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, March 9, 2023, 2:30 p.m.

The Senate was called to order by President Ty Masterson.  
The roll was called with 40 senators present.  
Invocation by Reverend Cecil T. Washington:

Praying For What's Best  
Haggai 2:8, James 1:17, 1 Kings 3:9-13

Heavenly Father, You have called us here to benefit Your people. And we have a serious need for our people to flourish, for our children, our grandchildren, our families and all to prosper. You said through the prophet Haggai (2:8) that all the silver and gold is Yours and in James 1:17 You said all the good favors come down from You.

So, Lord, we're asking for Your favors to fall fresh upon us here in Kansas. Like it was with King Solomon in 1 Kings 3:9-13 when he asked You for wisdom and understanding, in preference to material wealth. That's what You gave him. You made him wealthy in wisdom and understanding. You provided for him what no amount of money could produce, the ability to see things from Your perspective before making any of his decisions. Then You blessed him with material wealth and honor beyond measure.

Lord, we know we need adequate finances. Money is necessary for what we're doing. But would You regularly remind us to make the pursuit of Your wisdom and Your righteousness our priority? By Your Holy Spirit move us to be loving You, Your will and Your way over and above what the world has to offer, because ultimately You are the Source. You are the Provider. To Your Glory and Honor, In Jesus' Name, I pray this prayer, Amen!

The Pledge of Allegiance was led by President Masterson.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 307**, AN ACT concerning the Kansas fights addiction act; relating to definitions; adding for-profit private entities to the definition of "qualified applicant"; amending K.S.A. 2022 Supp. 75-776 and repealing the existing section, by Committee on Ways and Means.

**SB 308**, AN ACT concerning public employees; relating to hiring and promotion preferences for state employment; providing for a preference for persons with a disability; expanding the veterans preference to include remarried spouses of a deceased

veteran who died while, and as a result of, serving in the armed forces and to include surviving spouses, whether remarried or not remarried of a prisoner of war; amending K.S.A. 73-201 and repealing the existing section, by Committee on Ways and Means.

**SB 309**, AN ACT concerning cities and counties; relating to reductions in local retailers' sales and compensating use tax revenues; local extraordinary needs grants; creating the fixing instant revenue shock for taxpayers fund and local extraordinary needs fund; authorizing certain transfers to and payments from such funds; establishing the joint committee on local extraordinary needs grants; providing powers, duties and restrictions in reviewing and approving capital expenditure project grants by such joint committee; abolishing the local ad valorem tax reduction fund; amending K.S.A. 65-163j, 65-3306, 65-3327, 75-2556, 79-1479 and 79-2965 and K.S.A. 2022 Supp. 74-8768 and repealing the existing sections; also repealing K.S.A. 19-2694, 79-2960, 79-2961 and 79-2962 and K.S.A. 2022 Supp. 79-2959, by Committee on Ways and Means.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 306**.

Commerce: **HB 2344**.

Education: **SB 304**.

Federal and State Affairs: **SB 303**.

Financial Institutions and Insurance: **SB 302**.

Judiciary: **HB 2144**.

Local Government: **HB 2083**.

Public Health and Welfare: **SB 305**.

Ways and Means: **Sub HB 2077**.

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2002**, **HB 2201**, **HB 2229**, **HB 2304**

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2002**, **HB 2201**, **HB 2229**, **HB 2304** were thereupon introduced and read by title.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**SB 53**, AN ACT concerning sales taxation; relating to exclusions from the sales or selling price; excluding manufacturers' coupons; amending K.S.A. 2022 Supp. 79-3602c 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: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Gossage, Haley, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Ryckman, Shallenburger, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Present and Passing: Francisco.

The bill passed, as amended.

**SB 244**, AN ACT concerning the attorney general; authorizing prosecution of any crime that is part of an alleged course of criminal conduct that occurred in two or more counties; amending K.S.A. 75-702 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35; Nays 3; Present and Passing 2; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Reddi, Ryckman, Shallenburger, Steffen, Straub, Thompson, Tyson, Warren, Wilborn.

Nays: Doll, Sykes, Ware.

Present and Passing: Haley, Holland.

The bill passed.

#### EXPLANATION OF VOTE

I cannot in good conscience vote on legislation introduced by one of the Attorney General's top deputies, who has a clear – but bizarrely unrecognized – conflict of interest as a voting member of this body. This unspoken conflict calls into question the integrity of any policy introduced or promoted by the Attorney General. For this reason, I vote PASS on **SB 244**.—TOM HOLLAND

**HB 2238**, AN ACT concerning education; relating to student athletes; creating the fairness in women's sports act; restricting participation on women's teams to female students; providing a cause of action for violations of the act, was considered on final action.

On roll call, the vote was: Yeas 28; Nays 11; Present and Passing 1; Absent or Not Voting 0.

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

Nays: Corson, Dietrich, Faust-Goudeau, Francisco, Holland, Holscher, Pettey, Pittman, Reddi, Sykes, Ware.

Present and Passing: Haley.

The bill passed.

#### EXPLANATION OF VOTE

As I have said before.....I proudly support girls sports and I support the underlying intent of this bill.....**HB 2238**. I believe there is an important issue with this bill that needs to be addressed regarding including elementary students. Of the 18 states that have adopted a Fairness in Women's Sports Act, 8 of them have focused on Women's Sports at the secondary and post-secondary level and have not included elementary students for a very good reason. Elementary students are not a part of the KSHSAA. I still firmly believe that the practical implementation of this bill is problematic for our youngest students. I have drafted amendments and supported amendments that would remove these young children from this bill. My only goal was to protect those students from some potentially ugly unintended consequences regarding gender verification in

our local elementary schools. The argument that we must protect Title 9 and Title 9 includes elementary schools is not a valid one. Every school that accepts federal funds has to meet Title 9 guidelines and there are no high school activity association sports that would govern elementary schools. I am disappointed that this issue has been politicized to the point we cannot pass a common sense amendment to fix this flaw. I believe the people of the 20th Senate District sent me here to solve problems....not create more....and to make tough decisions. This is a tough decision.....but I must vote “NO” at this point in time.—BRENDA DIETRICH

I vote “NO” on **HB 2238**. Title IX states that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” I am concerned that **HB 2238** is not consistent with what I understand as a clear intent of this law to be inclusive. I do not believe there should be universal guidelines for transgender athletes in sports and instead rely on the experience and knowledge of our Kansas State High School Activities Association and the individual sports federations to continually evaluate and adopt their own conditions for inclusivity, fairness, and safety. It is unnecessary and confusing to reference students in grades K-6 in our public schools who are not participating in school sponsored sports competitions. —MARCI FRANCISCO

This is a bill that is not about fairness or women’s sports, it is about discrimination. This is an insult to female athletes. KSHSAA has in place a process that has worked well for our Kansas students and there have been No transgender participant problems or complaints. This bill won’t have an impact on a fairness issue that doesn’t even exist. I vote “NO” on **HB 2238**.—Pat Pettey

The debates on this bill – combined with those on **SB 233** and **SB 180** just last month – have made clear what my colleagues have until now tried to hide behind the guise of “fairness:” the Kansas Senate’s top priority is to systematically dehumanize and isolate the trans community. It is shameful that we welcomed youth into this building this week and promised them to improve mental health outcomes in our state, and have now passed yet another bill harming their classmates. It is shameful that we spent International Women’s Day prohibiting women and girls from living authentically, fully, and vibrantly. Trans girls are girls, trans women are women, and we should all be ashamed to be a party to these vicious attacks on them. I know I am. I vote “NO.” —DINAH SYKES

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

On motion of Senator Baumgardner the following report was adopted:

**HB 2184** be amended by motion of Senator Wilborn; on page 2, in line 5, by striking "which" and inserting "that"; in line 24, by striking "which" and inserting "that"; and the bill be passed as amended.

**SB 114** be amended by the adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Bowers to further amend **SB 114** failed and the following amendment was rejected; on page 1, following line 6, by inserting:

"New Section 1. (a) As used in sections 1 and 2, and amendments thereto:

(1) "Advanced recycling," "advanced recycling facility" and "secretary" mean the same as defined in K.S.A. 65-3402, and amendments thereto.

(2) "Financial responsibility mechanism" means a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of solid waste management facilities and advanced recycling facilities. "Financial responsibility mechanism" includes, but is not limited to, insurance, trust funds, surety bonds, letters of credit, personal bonds, certificates of deposit, financial tests and corporate guarantees as determined by the secretary.

(b) The secretary shall establish a system of permits for advanced recycling facilities. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(c) (1) An advanced recycling facility shall demonstrate financial responsibility prior to being issued a permit for the advanced recycling facility or prior to the advanced recycling facility being placed in operation. To demonstrate financial responsibility, the advanced recycling facility shall utilize a financial responsibility mechanism by:

(A) Establishing a cash trust fund under the control of the secretary; or

(B) obtaining a surety bond of which the secretary is the sole beneficiary.

(2) Any such financial responsibility mechanism utilized pursuant to this section shall be sufficient in form and amount not to exceed \$250,000 to meet all reasonably foreseeable costs of clean up, environmental remediation, firefighting, groundwater or surface water contamination, private property contamination, public health impacts, displacement and relocation of affected persons and any other reasonably foreseeable costs associated with the operation and management or abandonment of any pyrolysis and gasification facilities, including, but not limited to, the operation and storage of post-use polymer, plastic polymer or incidental contaminants or impurities.

(d) No person shall own or operate an advanced recycling facility unless such person holds a valid permit issued pursuant to this section.

(e) The secretary shall adopt rules and regulations:

(1) Establishing standards for advanced recycling facilities; and

(2) as necessary to administer and enforce the provisions of sections 1 and 2, and amendments thereto.

New Sec. 2. (a) There is hereby established in the state treasury the advanced recycling management fund.

(b) Money from the following sources shall be credited to the advanced recycling management fund:

(1) Permit application and renewal fees provided for by section 1, and amendments thereto;

(2) interest provided for by subsection (e);

(3) additional sources of funding, including, but not limited to, reimbursements and appropriations intended to be used for the purposes of the fund; and

(4) any other moneys provided by law.

(c) Moneys in the advanced recycling management fund shall be used only for the purpose of paying compensation and other expenses of employing personnel to carry out the duties of the secretary pursuant to section 1, and amendments thereto.

(d) All expenditures from the advanced recycling management fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

(e) On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the advanced recycling management fund interest earnings based on: (1) The average daily balance of moneys in the advanced recycling management fund for the preceding month; and (2) the net earnings rate for the pooled money investment portfolio for the preceding month.";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the semicolon by inserting "authorizing the secretary of health and environment to regulate advanced recycling facilities; establishing the advanced recycling management fund;"

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

On roll call, the vote was: Yeas 15; Nays 21; Present and Passing 2; Absent or Not Voting 2.

Yeas: Blasi, Bowers, Dietrich, Doll, Haley, Holland, Holscher, Kerschen, McGinn, Olson, Pyle, Reddi, Straub, Tyson, Ware.

Nays: Alley, Claeys, Corson, Erickson, Fagg, Francisco, Gossage, Kloos, Longbine, O'Shea, Peck, Petersen, Pettey, Pittman, Ryckman, Shallenburger, Steffen, Sykes, Thompson, Warren, Wilborn.

Present and Passing: Baumgardner, Billinger.

Absent or Not Voting: Faust-Goudeau, Masterson.

A motion by Senator Francisco to amend **SB 114** failed.

## FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Alley an emergency was declared by a 2/3 constitutional majority, and **SB 114**; **HB 2184** were advanced to Final Action and roll call.

**SB 114**, AN ACT concerning solid waste; relating to advanced recycling; creating definitions for "advanced recycling" and related terms; separating advanced recycling from the current solid waste management system; amending K.S.A. 65-3402 and repealing the existing section.

On roll call, the vote was: Yeas 28; Nays 10; Present and Passing 0; Absent or Not Voting 2.

Yeas: Alley, Baumgardner, Billinger, Blasi, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Francisco, Gossage, Kloos, Longbine, Masterson, McGinn, O'Shea, Peck, Petersen, Pittman, Ryckman, Shallenburger, Steffen, Straub, Sykes, Thompson, Warren, Wilborn.

Nays: Bowers, Haley, Holland, Holscher, Kerschen, Olson, Pyle, Reddi, Tyson, Ware.

Absent or Not Voting: Faust-Goudeau, Pettey.

The bill passed, as amended.

**HB 2184**, AN ACT concerning the judicial council; abolishing the judicial council fund; transferring all moneys and liabilities of such fund to the state general fund; repealing the transfer of funds from docket fees to the judicial council fund; transferring annually unencumbered funds from the publications fee fund to the state general fund; amending K.S.A. 2022 Supp. 20-362, 20-2207 and 20-2208 and repealing the existing sections.

On roll call, the vote was: Yeas 35; Nays 3; Present and Passing 0; Absent or Not Voting 2.

Yeas: Alley, Baumgardner, Billinger, Blasi, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Francisco, Gossage, Haley, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pittman, Reddi, Ryckman, Shallenburger, Straub, Sykes, Thompson, Ware, Warren, Wilborn.

Nays: Pyle, Steffen, Tyson.

Absent or Not Voting: Faust-Goudeau, Pettey.

The bill passed, as amended.

#### REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **HB 2080**, **HB 2322** be passed.

Committee on **Transportation** recommends **HB 2014** be amended on page 1, in line 14, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

#### REPORT ON ENROLLED BILLS

**SR 1713** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 9, 2023.

On motion of Senator Alley, the Senate adjourned pro forma until 9:00 a.m., Friday, March 10, 2023

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

