

Journal of the Senate

FORTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 14, 2013, 2:30 p.m.

The Senate was called to order by Vice President Jeff King.
The roll was called with forty senators present.
Invocation by Father Don Davidson:

O God, by whom the meek are guided in judgment, and light rises up in darkness for the godly: Grant us, in all our doubts and uncertainties, the grace to ask what you would have us do, that the Spirit of wisdom may save us from all false choices, and that in your light we may see light, and in your straight path we may not stumble. In your holy name. Amen.

The Pledge of Allegiance was led by Vice President Jeff King.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 236, AN ACT concerning social welfare; relating to the reporting of adult care home resident deaths; amending K.S.A. 2012 Supp. 39-1431 and repealing the existing section, by Committee on Ways and Means.

SB 237, AN ACT concerning the Kansas public employee retirement system; dealing with military service; amending K.S.A. 2012 Supp. 74-4902 and repealing the existing section, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 232**, **SB 234**, **SB 235**.

Financial Institutions and Insurance: **SB 233**.

Judiciary: **HB 2182**.

CHANGE OF REFERENCE

Under authority of the Senate President, Vice President Jeff King withdrew **HB 2060** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Assessment and Taxation**.

REFERENCE OF APPOINTMENTS

The following appointments made by the Governor and submitted to the Senate for

confirmation, were referred to Committees as indicated:

Member - State Board of Indigents Defense Services:

Kevin Smith, to serve a term to expire January 15, 2016.
(Federal and State Affairs))

Member - Kansas Public Employees Retirement Board of Trustees:

Lois Cox, to serve a term to expire January 15, 2017.
(Ways and Means)

Board Member - Kansas Development Finance Authority:

Patrice Petersen-Klein, to serve a term to expire January 15, 2017.
(Ways and Means)

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2052, HB 2055, HB 2199.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2052, HB 2055, HB 2199 were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Wagle and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1733**—

A RESOLUTION congratulating and commending Mary Ann Torrence,
Revisor of Statutes, on her retirement.

WHEREAS, After 39 years of service to the Kansas legislature, Mary Ann Torrence is retiring from the Office of Revisor of Statutes on March 16, 2013; and

WHEREAS, Mary was born on January 3, 1948 in Topeka, Kansas to Elon and Lois "Polly" Torrence; and

WHEREAS, Mary grew up in Topeka and graduated from Topeka High School in 1966; and

WHEREAS, Mary attended the University of Kansas and majored in political science and American studies. She graduated with her bachelor of science degree in 1971; and

WHEREAS, Mary earned her juris doctor degree from the University of Kansas school of law in 1974; and

WHEREAS, Mary began her legal career in 1974 as an assistant revisor in the Office of Revisor of Statutes; and

WHEREAS, In 2006, after 32 years working in the Office of Revisor of Statutes, Mary was appointed to serve as the Revisor of Statutes by the legislative coordinating council. She is the eighth person, first woman and first KU graduate to serve as Revisor in the history of the office; and

WHEREAS, Mary married Steve Tallen on November 24, 1983. They have two children, Aaron Tallen and Holly Rohleder. They also have four grandchildren, Kamryn, Preston, Paige and Alex; and

WHEREAS, Mary is a great champion of the mentor program in the Office of Revisor of Statutes. The program has provided new attorneys a source of experience

and institutional knowledge to learn the ins and outs of the unique nature of being a revisor; and

WHEREAS, Mary is known as a thoughtful and compassionate person with a big heart. She is always willing to put aside her own work to help a colleague in need. She is also quick to sit in on any committee regardless of the subject matter; and

WHEREAS, Mary is full of life. She loves to eat, drink and travel, especially in the good company of her dogs, her family and her friends: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate, commend and thank Mary Ann Torrence for her long, successful career serving the legislature in the Office of Revisor of Statutes. We wish her all the best in her retirement; and

Be it further resolved: That the Secretary of the Senate shall send one enrolled copy of this resolution to 4112 SW Lincolnshire Road, Topeka, Kansas 66610 and one enrolled copy to the Office of Revisor of Statutes.

On emergency motion of Senator Wagle **SR 1733** was adopted unanimously.

Senator Hensley introduced several members of Mary's family, including her husband, Steve Tallen , parents Elon and Lois Torrence, Joe and Darlene Pollom, Alan and Melody Pollom, Keith and Jane Brumley, Chuck Torrence, Mike, Holly and Kamrym Rohleder.

Senators Wagle and Hensley presented Mary Torrence with a framed copy of the resolution.

The Senators honored her with a standing ovation.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 42, AN ACT concerning civil actions; relating to architects and engineers; immunity from liability in negligence under certain circumstances, 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, Emler, 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, Wolf.

The bill passed.

HB 2059, AN ACT concerning taxation; relating to income tax rates, deductions, modifications and credits; severance tax; sales tax rates and distribution of revenue; amending K.S.A. 79-32,109 and K.S.A. 2012 Supp. 79-32,110, 79-32,117, 79-32,118, 79-32,120, 79-32,266, 79-3603, 79-3620, 79-3703, 79-3710 and 79-4217 and repealing the existing sections; also repealing K.S.A. 79-3632 and K.S.A. 2012 Supp. 79-32,117n and 79-3639a, was considered on final action.

On roll call, the vote was: Yeas 25; Nays 14; Present and Passing 1; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, Longbine, Love, Lynn, Masterson, Melcher, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Smith, Tyson, Wagle.

Nays: Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, LaTurner, McGinn, O'Donnell, Pettey, V. Schmidt, Wolf.

Present and Passing: Pyle.
The bill passed, as amended.

EXPLANATION OF VOTE

Mr. Vice President: When the temporary sales tax was passed, Kansas was in dire straits financially. There was no other plausible solution to balancing the budget. The Legislature promised the public to sunset the tax. This bill makes the tax permanent. I believe that violates the trust my constituents placed in me. Mr. Chairman, I vote No on **HB 2059**.—JAY EMLER

Mr. Vice President: As a young child, I recall my mother and the other elders in my community saying the rich get richer and the poor get poorer and when I asked what that meant I was simply told, “Honey, don’t worry about that, you are rich with love.” However, I never truly understood what that statement meant until now! Because the poor and working middle class families of the state of Kansas will bear the financial burden of the passage of this legislation. Mr. Vice President, I vote NO on **HB 2059**. – OLETHA FAUST-GOUDEAU

Mr. Vice President: With this tax plan, hardworking, average Kansas families will further bear the burden while wealthy Kansans and large corporations will prosper. I believe that is unfair, so I vote no on **HB 2059**.

The people of Kansas deserve leaders who are good on their word. I promised my constituents that I would allow the 2010 sales tax rate to expire after three years. By voting no, I’m keeping my promise.

Do not be fooled. Retaining this sales tax is not a way to fund schools; saying so is a serious misrepresentation. This sales tax will pay for the self-inflicted budget crisis that has come with these reckless and irresponsible income tax cuts.

This path to be like Texas has become a roadmap to ruin. We will have a Texas-sized hole in our budget with increased property taxes, higher poverty rates, and further cuts to education.

I believe everyday Kansas taxpayers do not want to be like Texas. They want Kansas to remain a state where everyone pays their fair share, poverty rates decline, and our schools are adequately and fairly funded.

This tax plan leaves hardworking, average Kansas taxpayers with the burden of doing more with less and having much to be desired. That is why I vote no.— ANTHONY HENSLEY

Senators Haley, Hawk, Holland, Kelly and Pettey request the record to show they concur with the “Explanation of Vote” offered by Senator Hensley.

Mr. Vice President: In addition to being one of the largest tax increases in Kansas’ history, **HB 2059** also violates the so-called principles of reform that Governor Brownback laid out last year. It further complicates the Kansas tax code by treating certain itemized deductions differently than others. Much more importantly, it actually takes more money out of the pockets of Kansas families than it puts in during the first four years of implementation. Even more disturbingly, the bill reneges on the promise that the Kansas Legislature made to sunset the temporary sales tax. This bill only makes

worse Kansas' regressive tax system while creating massive out year fiscal deficits. The legislation is a continuation of tax policy designed to benefit big business and the wealthy at the expense of hardworking Kansas taxpayers. I vote no on **HB 2059**. —TOM HOLLAND

Senators Francisco, Haley, Hawk, Hensley, Kelly and Pettey request the record to show they concur with the “Explanation of Vote” offered by Senator Holland.

Mr. Vice President, I think everyone in this body and in my district knows where I stand on the political spectrum so my vote might be confusing.

Last summer when I was running for the senate against a long-time incumbent I heard continuous frustration of my predecessors vote regarding raising the sales tax. I promised my district in person and in campaign mailers that I would fight to repeal that sales tax when I was serving them in Topeka. Regardless of other changes with the tax policy I will stand by my promise to my district because people can call me plenty of things (which they do) but I'm not a liar.

Furthermore, I would like to thank my colleagues for fighting for the future of Kansas. Being a somewhat recent college graduate I've been dismayed at the number of my friends who moved away from Kansas to states with better economies due to their tax structure. This chamber is making the difficult decisions and taking the critical steps necessary to ensure that Kansas retains our young people. Thank you. —MICHAEL O'DONNELL

Senator LaTurner requests the record show he concurs with the “Explanation of Vote” on **HB 2059** offered by Senator O'Donnell.

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 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, 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, Wolf.

The bill passed, as amended.

HB 2252, AN ACT concerning crimes, criminal procedure and punishment; relating to the statute of limitations for rape prosecutions; amending K.S.A. 2012 Supp. 21-5107 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, Emler, 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, Wolf.

The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 222** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **SB 162** be amended on page 1, in line 20, after "plan." by inserting "The provisions of this section shall expire on December 31, 2017.";

On page 8, in line 12, by striking "all taxable" and inserting "tax"; also in line 12, by striking "beginning after December 31, 2012" and inserting "2013 through 2017"; in line 17, after "income" by inserting "or has not been claimed as an itemized deduction by the taxpayer"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 214** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 214," as follows:

"Substitute for **SENATE BILL NO. 214**
By Committee on Federal and State Affairs

"AN ACT concerning bottle rockets; amending K.S.A. 31-155 and 31-156 and repealing the existing sections.";

And the substitute bill be passed.

Committee on **Financial Institutions and Insurance** recommends **HB 2007** 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 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 Masterson in the chair.

On motion of Senator Masterson the following report was adopted:

Recommended: The committee report on **HB 2022** recommending a **Senate Sub for HB 2022** be adopted.

S Sub for HB 2022 be amended by motion of Senator Lynn, on page 3, in line 27, by striking "conventions" and inserting "convention"; in line 39, after "(a)" by inserting "Except as provided in subsections (b) and (c),"

S Sub for HB2022 be further amended by motion of Senator Lynn, on page 1, in line 12, by striking "(c)" and inserting "(d)"; following line 35, by inserting:

"(c) (1) Nothing in this section precludes a professional employees' organization or a public employee organization from making expenditures of union dues to communicate directly with its own members about political candidates or political issues.

(2) Nothing in this section precludes a professional employees' organization or public employee organization from making expenditures of union dues either for the establishment of a political fund or to solicit contributions from its members to a political fund.";

And by redesignating subsections accordingly, and **S Sub for HB 2022** be passed as

amended.

FINAL ACTION

On motion of Senator Bruce an emergency was declared by a 2/3 constitutional majority, and **HB 2022** was advanced to Final Action and roll call.

S Sub for HB 2022, AN ACT concerning employees; relating to certain employee organizations; political activities; certain deductions from wages; amending K.S.A. 75-4333 and K.S.A. 2012 Supp. 44-319 and repealing the existing sections.

On roll call, the vote was: Yeas 24; Nays 16; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, King, Knox, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Nays: Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Kersch, LaTurner, Longbine, McGinn, Petersen, Pettey, V. Schmidt, Wolf.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

Mr. Vice President: Theodore Roosevelt said that “The majority of a democracy has no more right to tyrannize over a minority, than under a different system, the latter would have to oppress the former”. I vote “No” on **S Sub for HB 2022**.—TOM HOLLAND

Mr. Vice President: During my 40 years in the dairy business and still even today, we had the benefit to deduct our PAC contribution from our paycheck. I understand the difference between public and private entities. Nonetheless, I cannot vote to deny someone else the same privilege that I enjoy. Therefore I vote no on **HB 2022**.—DAN KERSCHEN

On motion of Senator Bruce, the Senate adjourned until 8:00 a.m., Friday, March 15, 2013.

HELEN MORELAND, ROSE MARIE GLATT, CHARLENE BAILEY, *Journal Clerks*.
DIANE MINEAR, *Secretary of the Senate*.

