

# Journal of the House

## THIRTY-NINTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Wednesday, March 7, 2018, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Schwab in the chair.

The roll was called with 122 members present.

Reps. Cox, Gallagher and Huebert were excused on verified illness.

Present later: Rep. Cox.

Prayer by guest chaplain, Reverend Richard Sundermeyer, pastor, Family Life Church of the Nazarene, Topeka.

Almighty God, as the limited time we have in this year's session of the Kansas Legislature winds down, we are reminded afresh and anew of our deep need for Your leading in everything we consider as a legislative body.

May this day be one that finds all of us willing to be led by Your presence and inspiration affording us the ability to unite for the greater benefit of this great state and its citizens.

May this day be one that enables us to move beyond past differences into a united body only doing what is best for everyone, great and small alike.

May this day be one that challenges us to the best, not only in ourselves, but in each other.

May this day be one that seeks justice for the oppressed, provision for the disadvantaged, and hope for those without hope.

May this day be one where righteousness is the overriding agenda of the day regardless of the political cost.

May this day be one that will cause You to look down on this body with Your smile of approval because we did the right thing.

We thank You for giving us this day.

In Jesus name I pray these things, Amen.

The Pledge of Allegiance was led by Rep. Mastroni.

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

**HB 2772**, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; prohibiting certain organizations and associations from being an eligible employer; amending K.S.A. 2017 Supp. 74-4902 and repealing the existing section; also repealing K.S.A. 19-2689, 74-4931a and 74-4931b, by Committee on Appropriations.

**REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to committees as indicated:

Appropriations: **HB 2767, HB 2768.**

K-12 Education Budget: **HB 2771.**

Taxation: **HB 2769, HB 2770.**

**CHANGE OF REFERENCE**

Speaker pro tem Schwab announced the withdrawal of **HB 2541** from the Committee on Appropriations and re-referral to the Calendar under the heading General Orders.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**HB 2416**, AN ACT concerning income taxation; relating to credits; certain purchases of goods and services from qualified vendors that provide employment to individuals who are blind or severely disabled; qualifications, procedures and limitations, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alcalá, Alford, Arnberger, Aurand, Averkamp, Baker, Ballard, Barker, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis, Frownfelter, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Cox, Gallagher, Huebert.

The bill passed, as amended.

**HB 2606**, AN ACT concerning drivers' licenses; relating to electronic online renewal; vision requirements; amending K.S.A. 2017 Supp. 8-240 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 2; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alcalá, Alford, Arnberger, Aurand, Averkamp, Baker, Ballard, Barker, Becker, Bergquist, Bishop, Blex, Brim, Burris, Burroughs, Carlin, Carmichael, B. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Crum, S., Curtis, E. Davis, Deere, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Finney, Francis,

Frownfelter, Garber, Gartner, Good, Hawkins, Helgerson, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Holscher, Horn, Houser, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Landwehr, Lewis, Lusk, Lusker, Markley, Mason, Mastroni, Miller, Murnan, Neighbor, Ohaebosim, Orr, Osterman, Ousley, Parker, F. Patton, Phelps, Phillips, Pittman, R. Powell, Probst, Proehl, Rafie, Rahjes, Ralph, Resman, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Seiwert, Sloan, Smith, A., Smith, E., Stogsdill, Sutton, S. Swanson, Tarwater, Thompson, Trimboli, Trimmer, Vickrey, Victors, Ward, Waymaster, Weber, C., Weigel, Wheeler, Whipple, Whitmer, K. Williams, Wolfe Moore.

Nays: Thimesch, Winn.

Present but not voting: None.

Absent or not voting: Cox, Gallagher, Huebert.

The bill passed, as amended.

On motion of Rep. Hineman, the House resolved into the Committee of the Whole, with Rep. Hawkins in the chair.

#### COMMITTEE OF THE WHOLE

On motion of Rep. Hawkins, Committee of the Whole report, as follows, was adopted:

Recommended that on motion of Rep. Whitmer to amend **HB 2757**, Rep. Ward requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment was germane.

**Roll call was demanded on motion of Rep. Whitmer to amend HB 2757 on page 5, following line 1, by inserting:**

"New Sec. 5. (a) For purposes of this section:

(1) "Employing authority" means a state agency, board, commission, city, county, municipality, authority, or institution that employs a "public employee."

(2) "Public employee" means parole officers, corrections officers, game wardens, municipal bus drivers, public sewer and water workers, social workers, paramedics, law enforcement, police and fire employees, municipal garbage collectors, compliance officers, state forestry officers, state highway maintenance workers, Kansas department of agriculture inspectors and any public sector employee who is a member of or represented by an employee organization.

(b) (1) Whenever a public employee is given written notice of intention by an employing authority to not renew or to terminate the employment or contract of the public employee, the written notice of the proposed nonrenewal or termination shall include: (A) A statement of the reasons for the proposed nonrenewal or termination; and (B) a statement that the public employee may have the matter heard by a hearing officer upon written request provided to the employing authority within 15 calendar days from the date of such notice of nonrenewal or termination.

(2) Within 10 calendar days after the filing of any written request of a public employee to be heard as provided in subsection (b)(1), the employing authority shall notify the secretary of administration that a list of qualified hearing officers is required. Such notice shall contain the mailing address of the public employee. Within 10 days

after receipt of notification from the employing authority, the secretary of administration shall provide to the employing authority and to the public employee, a list of five randomly selected, qualified hearing officers.

(3) Within five days after receiving the list from the secretary of administration, each party shall eliminate two names from the list, and the remaining individual on the list shall serve as hearing officer. In the process of elimination, each party shall eliminate no more than one name at a time, the parties alternating after each name has been eliminated. The first name to be eliminated shall be chosen by the public employee within five days after the public employee receives the list. The process of elimination shall be completed within five days thereafter.

(4) Either party may request that one new list be provided within five days after receiving the list. If such a request is made, the party making the request shall notify the secretary of administration and the other party, and the secretary of administration shall generate a new list and distribute it to the parties in the same manner as the original list.

(5) In lieu of using the process provided in paragraphs (3) and (4), if the parties agree, they may make a request to the American arbitration association for an arbitrator to serve as the hearing officer. Any party desiring to use this alternative procedure shall so notify the other party in the notice required under paragraph (1). If the parties agree to use this procedure, the parties shall make a joint request to the American arbitration association for a hearing officer within 10 days after the public employee files a request for a hearing. If the parties choose to use this procedure, the parties shall each pay  $\frac{1}{2}$  of the cost of the arbitrator and of the arbitrator's expenses.

(6) The secretary of administration shall compile and maintain a list of hearing officers comprised of residents of this state who are attorneys at law. Such list shall include a statement of the qualifications of each hearing officer.

(7) Attorneys interested in serving as hearing officers under the provisions of this section shall submit an application to the secretary of administration. The secretary of administration shall determine if the applicant is eligible to serve as a hearing officer pursuant to the provisions of paragraph (8).

(8) An attorney shall be eligible for appointment to the list if the attorney has: (A) Completed a minimum of 10 hours of continuing legal education credit in the area of due process, administrative law or employment law within the past five years; or (B) previously served as the chairperson of a due process hearing committee prior to the effective date of this section. An attorney shall not be eligible for appointment to the list if the attorney has been employed to represent an employing authority or a public employee in a due process hearing within the past five years.

(c) The hearing provided for under subsection (b) shall commence within 45 calendar days after the hearing officer is selected, unless the hearing officer grants an extension of time. The hearing shall afford procedural due process, including the following:

(1) The right of each party to have counsel of such party's own choice present and to receive the advice of such counsel or other person whom such party may select;

(2) the right of each party or such party's counsel to cross-examine any person who provides information for the consideration of the hearing officer, except those persons whose testimony is presented by affidavit;

(3) the right of each party to present such party's own witnesses in person, or their testimony by affidavit or deposition, except that testimony of a witness by affidavit may

be presented only if such witness lives more than 100 miles from the location of an employing authority, or is absent from the state, or is unable to appear because of age, illness, infirmity or imprisonment. When testimony is presented by affidavit, the same shall be served in person or by first-class mail not less than 10 calendar days prior to presentation to the hearing officer;

(4) the right of the public employee to testify in the public employee's own behalf and give reasons for the public employee's conduct, and the right of the employing authority to present its testimony through such persons as the employing authority may call to testify in its behalf and to give reasons for its actions, rulings or policies;

(5) the right of the parties to have an orderly hearing; and

(6) the right of the public employee to a fair and impartial decision based on substantial evidence.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "school districts" and inserting "public employees"; also in line 1, after "to" by inserting "public employee and"; in line 2, after the semicolon by inserting "school districts;"

On roll call, the vote was: Yeas 38; Nays 82; Present but not voting: 1; Absent or not voting: 4.

Yeas: Arnberger, Baker, Barker, Bergquist, Blex, Burris, B. Carpenter, Corbet, Crum, S., E. Davis, Deere, Esau, Hawkins, Highland, Hodge, Hoffman, Houser, Humphries, Jacobs, K. Jones, Landwehr, Lusk, Mason, Miller, Osterman, Pittman, R. Powell, Probst, Resman, Seiwert, Sutton, Thimesch, Trimboli, Trimmer, Vickrey, Weber, C., Whitmer, K. Williams.

Nays: Alcalá, Alford, Awerkamp, Ballard, Becker, Bishop, Brim, Burroughs, Carlin, Carmichael, Claeys, Clark, Clayton, Concannon, Curtis, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Finch, Finney, Francis, Frownfelter, Garber, Gartner, Good, Helgerson, Henderson, Hibbard, Highberger, Hineman, Holscher, Horn, Johnson, Judd-Jenkins, Karleskint, Kelly, Kessinger, Koesten, Kuether, Lewis, Lusker, Markley, Mastroni, Murnan, Neighbor, Ohaebosim, Orr, Ousley, Parker, F. Patton, Phelps, Phillips, Proehl, Rafie, Rahjes, Ralph, Rooker, Ruiz, Ryckman, Sawyer, Schreiber, Schroeder, Schwab, Sloan, Smith, A., Smith, E., Stogsdill, S. Swanson, Tarwater, Thompson, Victors, Ward, Waymaster, Weigel, Wheeler, Whipple, Winn, Wolfe Moore.

Present but not voting: Aurand.

Absent or not voting: Cox, Gallagher, Huebert, Jennings.

The motion of Rep. Whitmer to amend **HB 2757** did not prevail.

On motion of Rep. Aurand to amend **HB 2757**, the motion did not prevail; and the bill be passed.

On motion of Rep. Tarwater to amend **HB 2758**, the motion did not prevail; and the bill be passed.

## REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Pensions** recommends **SB 275** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 17-2219 is hereby amended to read as follows: 17-2219. (a) Any member may be expelled from the credit union:

(1) By a  $\frac{2}{3}$  vote of the members present at any regularly called meeting of the

membership; or

(2) in accordance with the provisions of subsection (b), by the ~~board of directors~~ president, general manager or any other credit union employee designated by the board of directors for a member's abuse of member account privileges, a member's act or failure to act which causes financial loss to the credit union, ~~or a member's failure to purchase shares and utilize loan or other services of the credit union, or a member's failure to comply with the credit union's adopted policy regarding expulsion.~~ The ~~board of directors~~ president or general manager shall report the expulsion of a member at the next regularly scheduled ~~members'~~ board meeting.

(b) The board of directors of a credit union may adopt a policy with respect to expulsion from membership for any reason set forth in ~~paragraph (2) of~~ subsection (a) (2). If such a policy is adopted, written notice of the policy as adopted and effective date of such policy shall be mailed to each member of the credit union at the member's current address appearing on the records of the credit union not less than 30 days prior to the effective date of such policy. In addition, each new member shall be provided written notice of any such policy prior to or upon applying for membership. ~~The board of directors of a credit union shall provide the member with a notice of expulsion from the membership not less than 30 days prior to the effective date of the expulsion. Within the thirty-day period, the member, by written request, may require the board of directors to bring the member's expulsion before the credit union membership at the next regularly scheduled members' meeting. If the member makes such written request, the board of directors' expulsion of such member shall be delayed until the credit union membership votes on such member's expulsion as provided under subsection (a). An expelled member shall be informed of the reason for expulsion and may appeal the expulsion to the board of directors by making a written request to the board of directors within 30 days of the expulsion.~~

(c) A member may withdraw from a credit union, as hereinafter provided, by filing a written notice of such intention. All amounts paid on shares of an expelled or withdrawing member, with any dividends credited to the member's shares to the date of expulsion, or withdrawal, shall be paid to the member, but only as funds become available and after deducting any amounts due to the credit union by the member. All shares of an expelled or withdrawing member, with any interest accrued, shall be paid to the member, subject to 60 days' notice, and after deducting any amounts due to the credit union by the member. The member, when withdrawing shares, shall have no further right in the credit union or to any of its benefits, but such expulsion or withdrawal shall not operate to relieve such member from any remaining liability to the credit union.";

On page 2, in line 13, after "K.S.A." by inserting "17-2219 and"; also in line 13, by striking "is" and inserting "are"; in line 15, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "the" and inserting "credit unions; relating to expulsion of members;"; also in line 1, by striking "relating to"; in line 2, after "K.S.A." by inserting "17-2219 and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Financial Institutions and Pensions** recommends **SB 335**, as amended by Senate Committee, be amended on page 2, in line 10, by striking "state"; in line 15, by striking "state"; in line 19, by striking "state"; in line 22, by striking "state"; in line 27, by striking "state"; in line 29, by striking "state"; in line 32, by striking "state";

On page 10, in line 9, by striking "state"; and the bill be passed as amended.

#### **COMMITTEE ASSIGNMENT CHANGES**

Speaker pro tem Schwab announced the appointment of Rep. Awerkamp to replace Rep. Thompson on Committee on Agriculture on March 7, 2018.

#### **REPORT ON ENGROSSED BILLS**

**HB 2416, HB 2606** reported correctly engrossed March 6, 2018.

On motion of Rep. Hineman, the House adjourned until 11:00 a.m., Thursday, March 8, 2018.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

