

Journal of the Senate

FORTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 14, 2018, 2:30 p.m.

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

Gracious Master, Lord, God of Heaven and earth, once again, You've allowed us to gather in this place. A place where we make significant decisions. A place where we look to You for wisdom and guidance.

But, with our natural eyes, we cannot see You. With our natural ears, we cannot hear You. Lord, we can be in this place and miss connecting with You.

Yet hearing from You, is the need, and it's what You want us to practice and get good at.

There's a movie out called the "War Room." It's a small room where upon entering, distractions are reduced...the noises that naturally exist all around us are minimized, and a private visit with You becomes qualitative.

In Matthew 6:6, You've told us how to go into that place where we can hear from You. It's not a natural place, it's a spiritual place. It's a place of privacy where we can go in with You, while physically sitting or standing right where we are.

Lord, I want to give each of us a chance to try it right now. For the next few seconds; for the next few moments, help us, in the Spirit, to prayerfully enter a private place with You.

Thank You for hearing us Lord. Thanks for a moment of private time with You. Without Your wisdom and guidance, we'd be like a ship without a rudder. Help us to practice it and to get good at it.

I come to You in the precious Name of Jesus, Amen.

The Pledge of Allegiance was led by Vice President Longbine.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **HB 2541**.

Federal and State Affairs: **SB 446; HB 2650**.

CHANGE OF REFERENCE

Under the authority of the President, the Vice President withdrew **HB 2700** from the Committee on **Ethics, Elections and Local Government**, and referred the bill to the Committee on **Federal and State Affairs**.

The Vice President withdrew **SB 352** from the Committee on **Education**, and referred the bill to the Committee on **Senate Select Committee on Education Finance**.

The Vice President withdrew **HB 2531** from the Calendar under the heading of **General Orders**, and rereferred the bill to the Committee on **Transportation**.

MESSAGE FROM THE HOUSE

The House nonconcurrs in Senate amendments to **HB 2232**, requests a conference and has appointed Representatives Davis, Gallagher and Ousley as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator V. Schmidt, the Senate acceded to the request of the House for a conference on **HB 2232**.

The Vice President appointed Senators V. Schmidt, Bollier and Kelly as conferees on the part of the Senate.

CONSIDERATION OF APPOINTMENTS

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

Senator Denning moved the following appointment be confirmed as recommended by the **Committee on Public Health and Welfare**.

Department for Children and Families:

Gina Meier-Hummel, To serve at the pleasure of the governor.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

The appointment was confirmed.

FINAL ACTION ON CONSENT CALENDAR

HB 2469, **HB 2567** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

HB 2469, AN ACT concerning insurance; relating to property and casualty insurance; exempting certain claims handling operations from certain local ordinances and restrictions during a catastrophic event threatening life or property.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

The bill passed.

HB 2567, AN ACT concerning crimes, punishment and criminal procedure; relating to determination of an offender's criminal history classification; amending K.S.A. 2017 Supp. 21-6811 and repealing the existing section.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Sub HB 2194, AN ACT concerning motor vehicles; relating to motorcycles, approved safety training curriculum; 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 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

The substitute bill passed, as amended.

HB 2476, AN ACT concerning alcoholic beverages; relating to the definition of alcoholic liquor, including alcoholic candy and confectionery products to the definition of alcoholic liquor; confectionery products containing alcohol and adulterated food products; microbreweries; authorizing the on-premises sale of certain large containers of beer for off-premises consumption, labeling requirements thereof; amending K.S.A. 65-664 and K.S.A. 2016 Supp. 41-102, as amended by section 4 of chapter 56 of the 2017 Session Laws of Kansas and K.S.A. 2017 Supp. 41-102 and 41-308b and repealing the existing sections; also repealing K.S.A. 2017 Supp. 41-102, as amended by section 1 of this act, 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: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Nays: Hilderbrand, Pyle.

The bill passed, as amended.

SPECIAL REMARKS – EXPLANATION OF VOTES

Mr. Vice President: As both a product of and a student of history (among other notable examples in my own life, my father George Haley was the first black person elected to serve in the Kansas Senate and my uncle Alex Haley traced our family's

genealogy in ROOTS back to Africa) I am keenly aware of this particular Senate Roll call vote; the likes of which has not been experienced by this Chamber in almost a century and a half. In as much a number of years in the 1800's (1870's-1900) as in this millennium (2000-present) and ALL of the 1900's, ONLY Republicans OR Democrats have existed, and voted, in the Kansas Senate. So today, for the first time in a very long time, with the vote of the Senator from Finney who is now a registered Independent, a certain lapse in history, a drought if you will, Mr. Vice President, is broken. Whether Republican or Democrat, we are each participatory heir to this historic roll call. And I, for one, am particularly proud of it. – DAVID HALEY

COMMITTEE OF THE WHOLE

On motion of Senator Denning, 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 2498 be passed.

SB 428 be amended by motion of Senator V. Schmidt; on page 2, in line 9, after "comply" by inserting "with"; and the bill be passed as amended.

SB 340 be amended by the adoption of the committee amendments, be further amended by Senator Rogers; on page 3, in line 29, after "advocates" by inserting ". Any meeting of the postsecondary education institution or any group or committee thereof to discuss the allocation of student activities fees shall be subject to the Kansas open meetings act";

On page 4, in line 9, after "annually" by inserting "and a public notice shall be published in the student newspaper each year listing where the policy can be found"

A ruling of the chair was requested as to the germaneness of the amendment. The Chair of the Rules Committee ruled the amendment was germane to the bill. The above amendment was adopted and **SB 340** be passed as further amended.

A motion by Senator Rogers to amend **SB 340** failed and the following amendment was rejected; on page 3, in line 6, before "are" by inserting "and faculty"; in line 16, before the first comma by inserting "and faculty"; in line 20, after the stricken material, by inserting "the primary responsibility of faculty is to engage an honest, courageous and persistent effort to search out and communicate the truth that lies in the areas of their competence;"; in line 21, before "subject" by inserting "(10)";

On page 5, in line 2 after the stricken material, by striking "any" and inserting "nonpublic";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly

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

On roll call, the vote was: Yeas 12; Nays 26; Present and Passing 2; Absent or Not Voting 0.

Yeas: Berger, Bollier, Doll, Faust-Goudeau, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Pettey, Rogers.

Nays: Alley, Billinger, Bowers, Denning, Estes, Fitzgerald, Givens, Goddard, Hilderbrand, Kersch, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pilcher-Cook, Pyle, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Present and Passing: Baumgardner, Francisco.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **HB 2558** 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 **Assessment and Taxation** recommends **SB 437** be amended on page 37, in line 13, by striking the first comma and inserting "and"; also in line 13, by striking "and numismatic"; also in line 13, after the semicolon by inserting "and"; in line 14, by striking "; and currency"; in line 17, by striking "'Currency'"; by striking all in lines 18 through 19;

On page 1, in the title, in line 2, by striking "currency,"; and the bill be passed as amended.

Committee on **Ethics, Elections and Local Government** recommends **SB 313** 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 **Judiciary** recommends **HB 2457**, as amended by House Committee, be passed.

Also, **Judiciary** recommends **HB 2571**, as amended by House Committee, be amended on page 12, in line 34, by striking "request" and inserting "make a request in accordance with procedures adopted under K.S.A. 45-220, and amendments thereto,"; and the bill be passed as amended.

HB 2579, as amended by House Committee, be amended on page 2, in line 25, by striking "\$80,000" and inserting "\$50,000"; in line 35, by striking all after "(3)"; by striking all in lines 36 and 37; in line 38, by striking all before the period and inserting "(A) Except as provided in subparagraph (B), the court shall order that the award be paid as a combination of an initial payment not to exceed \$100,000 and the remainder as an annuity not to exceed \$80,000 per year. The claimant shall designate a beneficiary or beneficiaries for the annuity by filing such designation with the court.

(B) The court may order that the award be paid in one lump sum if the court finds that it is in the best interests of the claimant";

Also on page 2, in line 43, by striking "and";

On page 3, in line 2, by striking all after the second comma; in line 3, by striking "assistance,"; also in line 3, by striking "health insurance coverage" and inserting "personal finance literary assistance"; in line 4, after "appropriate" by inserting ";

(C) shall be entitled to receive tuition assistance pursuant to section 2, and amendments thereto; and

(D) shall be entitled to participate in the state health care benefits program pursuant to K.S.A. 75-6501, and amendments thereto";

Also on page 3, following line 29, by inserting:

"(3) Whenever any judgment has been entered pursuant to this section, the attorney general shall seek to recover damages for the state of Kansas, for the benefit of the state general fund, from any persons who knowingly contributed to the wrongful conviction and imprisonment of the claimant, to the extent the evidence in the case warrants such action. The attorney general shall also prosecute ouster and criminal proceedings as the evidence in the case warrants.";

On page 4, in line 15, after the period by inserting "The Kansas bureau of investigation shall provide confirmation of such action to the court."; in line 19, after "(i)" by inserting "Upon entry of a certificate of innocence, the court shall order the

expungement and destruction of the associated biological samples authorized by and given to the Kansas bureau of investigation in accordance with K.S.A. 21-2511, and amendments thereto. The order shall state the information required to be stated in a petition to expunge and destroy the samples and profile record pursuant to K.S.A. 21-2511, and amendments thereto, and shall direct the Kansas bureau of investigation to expunge and destroy such samples and profile record. The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation, which shall carry out the order and provide confirmation of such action to the court. Nothing in this subsection shall require the Kansas bureau of investigation to expunge and destroy any samples or profile record associated with the claimant that was submitted pursuant to K.S.A. 21-2511(a), and amendments thereto, related to any offense other than the offense for which the court has entered a certificate of innocence.

(j) ";

Also on page 4, in line 21, by striking "(j)" and inserting "(k) Nothing in this section shall preclude the department of corrections from providing reentry services to a claimant that are provided to other persons, including, but not limited to, financial assistance, housing assistance, mentoring and counseling. Such services shall be provided while an action under this section is pending and after any judgment is entered, as appropriate for such claimant.

(l)";

Also on page 4, following line 22, by inserting:

"New Sec. 2. (a) Any individual awarded tuition assistance pursuant to section 1, and amendments thereto, shall receive a waiver of tuition and required fees for attendance at a postsecondary educational institution for up to 130 credit hours. Such individual may attend a postsecondary educational institution either full or part time.

(b) (1) Subject to appropriations, the state board of regents may make expenditures to reimburse each individual awarded tuition assistance pursuant to section 1, and amendments thereto, who is enrolled in a postsecondary educational institution for additional fees, including, but not limited to, fees for room and board, technical equipment and course-required books.

(2) No postsecondary educational institution shall delay enrollment of an individual who is awarded tuition assistance pursuant to section 1, and amendments thereto, because appropriations are not available for any additional fees provided to such individual.

(c) To remain eligible for the tuition and fees waiver under this section, an individual shall remain in good standing at the postsecondary educational institution where the individual is enrolled.

(d) Individuals shall provide a written or electronic copy of the court order awarding relief in the form of tuition assistance to the postsecondary educational institution or the state board of regents.

(e) The state board of regents shall adopt rules and regulations to administer the provisions of this section.

(f) As used in this section, "postsecondary educational institution" means any state educational institution as defined in K.S.A. 76-711, and amendments thereto, municipal university, community college, technical college or institute of technology in Kansas.";

Also on page 4, in line 36, after "thereto" by inserting ", including, but not limited to, premiums under the state health care benefits program";

On page 5, following line 20, by inserting:

"Sec. 4. K.S.A. 2017 Supp. 75-6501 is hereby amended to read as follows: 75-6501. (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program.

(b) (1) Subject to the provisions of paragraph (2), the state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, nonmedical remedial care and treatment rendered in accordance with a religious method of healing and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including, but not limited to, qualifications for benefits, services covered, schedules and graduation of benefits, conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by the commission.

(2) The state health care benefits program shall provide the benefits and services required by K.S.A. 2017 Supp. 75-6524, and amendments thereto.

(c) The Kansas state employees health care commission shall designate by rules and regulations those persons who are qualified to participate in the state health care benefits program, including active and retired public officers and employees and their dependents as defined by rules and regulations of the commission. Such rules and regulations shall not apply to students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto. In designating persons qualified to participate in the state health care benefits program, the commission may establish such conditions, restrictions, limitations and exclusions as the commission deems reasonable. Such conditions, restrictions, limitations and exclusions shall include the conditions contained in ~~subsection (d) of~~ K.S.A. 75-6506(d), and amendments thereto. Each person who was formerly elected or appointed and qualified to an elective state office and who was covered immediately preceding the date such person ceased to hold such office by the provisions of group health insurance or a health maintenance organization plan under the law in effect prior to August 1, 1984, or the state health care benefits program in effect after that date, shall continue to be qualified to participate in the state health care benefits program and shall pay the cost of participation in the program as established and in accordance with the procedures prescribed by the commission if such person chooses to participate therein.

(d) (1) Commencing with the 2009 plan year that begins January 1, 2009, if a state employee elects the high deductible health plan and health savings account, the state's employer contribution shall equal the state's contribution to any other health benefit plan offered by the state. The cost savings to the state for the high deductible health plan shall be deposited monthly into the employee's health savings account up to the maximum annual amount allowed pursuant to ~~subsection (d) of~~ 26 U.S.C. § 223(d), as amended, for as long as the employee participates in the high deductible plan.

(2) If the employee had not previously participated in the state health benefits plan,

the employer shall calculate the average savings to the employer of the high deductible plan compared to the other available plans and contribute that amount monthly to the employee's health savings account up to the maximum annual amount allowed pursuant to ~~subsection (d) of 26 U.S.C. § 223(d)~~, as amended.

(3) The employer shall allow additional voluntary contributions by the employee to their health savings account by payroll deduction up to the maximum annual amount allowed pursuant to ~~subsection (d) of 26 U.S.C. § 223(d)~~, as amended.

(e) The commission shall have no authority to assess charges for employer contributions under the student health care benefits component of the state health care benefits program for persons who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.

(f) Nothing in this act shall be construed to permit the Kansas state employees health care commission to discontinue the student health care benefits component of the state health care benefits program until the state board of regents has contracts in effect that provide student coverage pursuant to the authority granted therefor in K.S.A. 75-4101, and amendments thereto.

(g) (1) On and after July 1, 2018, the commission shall designate claimants, as defined in section 1, and amendments thereto, as qualified to participate in the state health care benefits program. The commission shall implement this subsection in accordance with applicable federal law, including, but not limited to, the employee retirement income security act of 1974 and any regulations issued by the United States department of the treasury.

(2) A claimant shall have 31 calendar days from the date of judgment entered pursuant to section 1, and amendments thereto, to complete or decline enrollment in the state health care benefits program. A claimant shall be qualified to participate in the state health care benefits program for the remainder of the plan year when judgment is entered pursuant to section 1, and amendments thereto, and for the next ensuing plan year. A claimant shall not be qualified to elect a high-deductible health plan and health savings account under the state health care benefits program.

(3) Costs of premiums under the state health care benefits program for a claimant shall be paid from the tort claims fund established by K.S.A. 75-6117, and amendments thereto, and shall not be charged to the claimant. A claimant shall be responsible to pay any applicable copayments, deductibles and other related costs under the state health care benefits program.

(4) A claimant may elect to include the claimant's dependents under the state health care benefits program. For any covered dependents, the claimant shall be responsible to pay the costs of premiums, copayments, deductibles and other related costs under the state health care benefits program.

(5) The attorney general shall provide assistance to a claimant to obtain and maintain coverage under the state health care benefits program pursuant to this subsection, including: Enrollment; maintenance of related records; and other assistance as may be required or incidental to implement this subsection.";

Also on page 5, in line 21, by striking "is" and inserting "and 75-6501 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the second semicolon by inserting "tuition assistance; state health care benefits program;"; also in line 2, after "75-6117" by inserting "and 75-6501"; in line 3, by striking "section" and inserting "sections"; and

the bill be passed as amended.

REPORT ON ENROLLED BILLS

SR 1774, SR 1775, SR 1776 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 14, 2018.

On motion of Senator Denning, the Senate adjourned until 2:30 p.m., Thursday, March 15, 2018.

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

