

Journal of the Senate

TWELFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, January 29, 2020, 2:30 p.m.

The Senate was called to order by Vice President Jeff Longbine.

The roll was called with 40 senators present.

Vice President Longbine introduced Father Peter Jaramillio, Holy Family Church, Kansas City, to deliver the invocation:

Saint Paul said to Timothy, it is good to pray for those in authority. "First of all, I ask for supplications, prayers and petitions to be offered for everyone; for kings and for all in authority, that we may lead a tranquil life in all devotion and dignity, for this is good and pleasing to God." (1 Timothy 2:1-3)

Heavenly Father, You are God and there is no other. May You be glorified in Your divinity and in the Godhead, in the name of the Father, Son and Holy Spirit.

We come to You this afternoon and ask You to send the Holy Spirit to give wisdom to the State Senators of Kansas so they can deliberate and make good and wise decisions in accordance to Your Holy will and for the good of our society. May they honor You in doing what is right and just. O Yes, Lord, let them have the courage to do Your will what is right and just.

Bind any spirit from the enemy who seeks to deceive, discourage and destroy. Let not the enemy prevail against us, but may Your truth be revealed and may Your Holy Spirit be with this Senate today to give them peace and confidence to guide them in every way with all that is placed in their hands.

Thank You, O Lord, for being with us. Thank You for Your Holy Spirit and thank You for Your Son and Savior Jesus Christ who is our Lord, our brother, our friend and our king.

This we ask in His Holy and Glorious Name. Amen

The Pledge of Allegiance was led by Vice President Longbine.

CELEBRATION OF KANSAS DAY

In honor of Kansas Day, senators stood and joined the senators from Butler and Johnson, Senators Givens and Lynn, in the singing of *Home on the Range*.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 336, AN ACT concerning postsecondary education; relating to scholarship programs; creating the Kansas reinvest in postsecondary education act, by Committee on Education.

SB 337, AN ACT concerning education; providing ACT college entrance exams and workkeys assessments to nonpublic school students; amending K.S.A. 2019 Supp. 72-5179 and repealing the existing section, by Committee on Education.

SB 338, AN ACT concerning municipalities; adoption of budgets; authorizing an alternative procedure; amending K.S.A. 79-2927, 79-2929 and 79-2930 and repealing the existing sections, by Committee on Ethics, Elections and Local Government.

SB 339, AN ACT concerning electric utilities; relating to electric rates; state corporation commission; approval of certain contract rates for electricity; cost recovery from rate classes; amending K.S.A. 66-101b and 66-109 and repealing the existing sections, by Committee on Utilities.

SB 340, AN ACT concerning the Kansas state board of cosmetology; relating to disciplinary and enforcement actions; expanding the scope of such actions to non-licensees; amending K.S.A. 65-1908, 65-1941 and 65-1947 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 341, AN ACT concerning health and healthcare; relating to the practice of naturopathy; licensure and regulation of naturopathic doctors; scope of practice; amending K.S.A. 65-7201, 65-7207, 65-7208, 65-7209 and 65-7214 and K.S.A. 2019 Supp. 65-1626, 65-4101 and 65-7202 and repealing the existing sections; also repealing K.S.A. 65-7212, by Committee on Public Health and Welfare.

SB 342, AN ACT concerning drivers' licenses; relating to renewal of licenses; providing for the renewal notice to be delivered electronically; amending K.S.A. 2019 Supp. 8-247 and repealing the existing section, by Committee on Transportation.

SB 343, AN ACT concerning retirement and pensions; relating to the Kansas deferred retirement option program act; expanding DROP membership to all members of the Kansas police and firemen's retirement system; amending K.S.A. 2019 Supp. 74-4986l and 74-4986p and repealing the existing sections, by Senators Holland, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Taylor and Ware.

SB 344, AN ACT concerning the scrap metal theft reduction act; relating to photographs; amending K.S.A. 2018 Supp. 50-6,110, as amended by section 6 of chapter 66 of the 2019 Session Laws of Kansas, and repealing the existing section, by Committee on Judiciary.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture and Natural Resources: **SB 329**.

Assessment and Taxation: **SB 328**.

Education: **SB 335**.

Financial Institutions and Insurance: **SB 323, SB 324, SB 325**.

Judiciary: **SB 331, SB 332, SB 333, SB 334**.

Public Health and Welfare: **SB 327**.

Transportation: **SB 326, SB 330**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Baumgardner, Alley, Bollier, Braun, Estes, Givens, Hawk, Holland, Longbine, Lynn, Masterson, Miller, Pyle, Rucker, Sykes, Taylor and Thompson introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1752—

A RESOLUTION congratulating and commending the members of the 2020 Kansas Teacher of the Year team.

WHEREAS, The Kansas State Department of Education sponsors the Kansas Teacher of the Year program, which identifies, recognizes, and utilizes representatives of excellent teaching in the elementary and secondary classrooms of the state; and

WHEREAS, The mission of the program is to build and utilize a network of exemplary teachers who are leaders in the improvement of schools, student performance, and the teaching profession; and

WHEREAS, Two teachers — one elementary and one secondary — in each of the state's four United States congressional districts were selected as finalists for recognition as Kansas Teacher of the Year, with the recipient being chosen from among the eight finalists; and

WHEREAS, The Kansas Teacher of the Year is awarded with the Hubbard Foundation Kansas Teacher of the Year Ambassadorship, which enables the person selected to devote significant time during the second semester to activities supporting the mission of the program. The 2020 Kansas Teacher of the Year and the finalists were honored at an awards banquet on November 23, 2019. All members received a cash award as well as mementos of the event; and

WHEREAS, The Kansas Teacher of the Year is nominated to represent Kansas in the National Teacher of the Year program, a project of the Council of Chief State School Officers, presented by Voya Financial. The 2020 Kansas Teacher of the Year, Tabatha C. Rosproy, Winfield USD 465, is one of four finalists for the 2020 National Teacher of the Year; and

WHEREAS, The regional finalists are: Kara E. Belew, Andover USD 385; Amy R. Hillman, Olathe USD 233; Shawn Hornung, Wamego USD 320; Stefanie M. Lane, Clay County USD 379; Julie Loevenstein, Basehor-Linwood USD 458; Lara K. McDonald, Auburn-Washburn USD 437; and Melissa K. Molteni, Shawnee Mission USD 512: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the members of the 2020 Kansas Teacher of the Year team and wish Tabatha C. Rosproy success in the national competition; and

Be it further resolved: That the Secretary of the Senate shall send eight enrolled copies of this resolution to Senator Baumgardner.

On emergency motion of Senator Baumgardner **SR 1752** was adopted unanimously.

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 McGinn in the chair.

On motion of Senator McGinn the following report was adopted:

SCR 1613 be amended by motion of Senator Pyle; on page 2, in line 17, by striking all after "at"; by striking all in lines 18 and 19; in line 20 by striking all before the period and inserting "a special election which is hereby called on August 4, 2020, pursuant to section 1 of article 14 of the constitution of the state of Kansas, to be held in conjunction with the primary election held on such date"

and **SCR 1613** be adopted as amended.

A motion by Senator Doll to amend **SCR 1613** failed and the following amendment was rejected; on page 2, in line 17, by striking "primary election in August" and inserting "general election in November"

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

On roll call, the vote was: Yeas 13; Nays 27; Present and Passing 0; Absent or Not Voting 0.

Yeas: Bollier, Doll, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Miller, Pettey, Skubal, Sykes, Ware.

Nays: Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Denning, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pyle, Rucker, Suellentrop, Taylor, Thompson, Tyson, Wagle, Wilborn.

EXPLANATION OF VOTE

Madam Chair: I am voting "NO" on this amendment because I carried a separate constitutional amendment on the Senate floor last year. That amendment was passed by the voters of Kansas in the November 2019 General Election. No one questioned the validity of the constitutional amendment the voters passed in that election. The turnout in that 2019 General Election was lower than what is expected in the August 2020 Primary Election. Therefore there is no reasonable argument for applying a new voter turnout requirement for any new constitutional amendment. Therefore I vote "NO."—
KEVIN BRAUN

A motion by Senator Miller to amend **SCR 1613** failed and the following amendment was rejected; on page 1, in line 26, by striking "including, but not limited to," and inserting "except"

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

On roll call, the vote was: Yeas 11; Nays 29; Present and Passing 0; Absent or Not Voting 0.

Yeas: Doll, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Miller, Pettey, Sykes, Ware.

Nays: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pyle, Rucker, Skubal, Suellentrop, Taylor, Thompson, Tyson, Wagle, Wilborn.

EXPLANATION OF VOTE

Madam Chair: I stand strongly opposed to this amendment. The bill as written takes us back to the law as it existed prior to the Supreme Court decision which included exceptions for rape, incest and the life of the mother. I believe this amendment is a misguided attempt to exclude women who were raped, experienced incest and whose life is at risk from the protections they currently have under existing laws.—KEVIN BRAUN

Senator Petersen requests the record to show he concurs with the "Explanation of Vote" offered by Senator Braun on **SCR 1613**.

A motion by Senator Miller failed and the following amendment was rejected; on page 2, in line 2, by striking "is" and inserting "would be"

Senator Miller requested the failed amendment be posted in the journal.

A motion by Senator Miller to amend **SCR 1613** failed and the following amendment was rejected; on page 2, in line 7, by striking "could" and inserting "would"

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

On roll call, the vote was: Yeas 11; Nays 29; Present and Passing 0; Absent or Not Voting 0.

Yeas: Bollier, Doll, Faust-Goudeau, Haley, Hawk, Hensley, Holland, Miller, Pettey, Sykes, Ware.

Nays: Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Denning, Estes, Francisco, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pyle, Rucker, Skubal, Suellentrop, Taylor, Thompson, Tyson, Wagle, Wilborn.

A motion by Senator Hensley to amend **SCR 1613** failed and the following amendment was rejected; on page 1, in line 26, by striking "including, but not limited to," and inserting "except no law shall prohibit abortion"

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

On roll call, the vote was: Yeas 12; Nays 28; Present and Passing 0; Absent or Not Voting 0.

Yeas: Bollier, Doll, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Miller, Pettey, Sykes, Ware.

Nays: Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Denning, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pyle, Rucker, Skubal, Suellentrop, Taylor, Thompson, Tyson, Wagle, Wilborn.

A motion by Senator Sykes to amend **SCR 1613** failed and the following amendment was rejected; on page 1, in line 33, after "abortion" by inserting ", including, but not limited to, in circumstances of pregnancy resulting from rape or incest, or when necessary to save the life of the mother,";

On page 2, in line 2, after "abortion" by inserting ", including, but not limited to, in circumstances of pregnancy resulting from rape or incest, or when necessary to save the life of the mother,"

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

On roll call, the vote was: Yeas 13; Nays 26; Present and Passing 0; Absent or Not Voting 1.

Yeas: Bollier, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Miller, Pettey, Skubal, Sykes, Taylor, Ware.

Nays: Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Denning, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pyle, Rucker, Suellentrop, Thompson, Tyson, Wagle, Wilborn.

Absent or Not Voting: Doll.

A motion by Senator Francisco to amend **SCR 1613** failed and the following amendment was rejected; on page 2, in line 8, by striking "in many circumstances" and inserting ", unless there is a compelling state interest, and such regulation is narrowly tailored to further that interest"; in line 9, by striking "discovered" and inserting "recognized"; in line 10, after "2019" by inserting "and the current state prohibitions on

government funding of abortion"

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

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

Yeas: Bollier, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Miller, Pettey, Sykes, Ware.

Nays: Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Denning, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pyle, Rucker, Skubal, Suellentrop, Taylor, Thompson, Tyson, Wagle, Wilborn.

Absent or Not Voting: Doll.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Denning an emergency was declared by a 2/3 constitutional majority, and **SCR 1613** was advanced to Final Action and roll call.

SCR 1613, A PROPOSITION to amend the bill of rights of the constitution of the state of Kansas by adding a new section thereto stating that there is no constitutional right to abortion, and reserving to the people the ability to regulate abortion through the elected members of the legislature of the state of Kansas.

On roll call, the vote was: Yeas 28; Nays 12; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Denning, Doll, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pyle, Rucker, Suellentrop, Taylor, Thompson, Tyson, Wagle, Wilborn.

Nays: Bollier, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Miller, Pettey, Skubal, Sykes, Ware.

A two-thirds constitutional majority having voted in favor of the resolution, **SCR 1613** was adopted, as amended.

EXPLANATION OF VOTE

Mr. Vice President: As a doctor, I know that when people are making private, complex medical decisions, the last thing they want is a politician in the middle of it. I believe it is absolutely wrong to permanently change the Kansas Constitution to potentially put politicians in between women and their doctors when difficult, personal medical decisions need to be made. My medical expertise has given me a unique appreciation for why that doctor-patient relationship is so important and must be preserved. Protecting autonomy - the right to make our own decisions - must be maintained in our constitution.—BARBARA BOLLIER

Mr. Vice President: I vote "AYE" and would like to explain my vote. Many of you have heard me say that I grew up with a handicapped brother who never walked, who never talked, and who never fed himself. His name was James Braun and we called him Jimmy. He died about fifteen years ago at the age of thirty-nine. In this Senate position it has been surprising to me how much Jimmy's life had an impact on me, and I find myself protecting his rights over and over again. Jimmy never spoke a word, but his life certainly spoke volumes and even as I stand here today, I am just realizing what his life meant and why he was sent to my family. His life taught us compassion and it taught us

how to protect the weakest among us. Jimmy's life had meaning, his life mattered and his life deserved protecting so today I vote life. I am also voting for this amendment because I listened to my constituents in my district and the message was clear. They want us to respect all three branches of government and they want the ability to vote. The vast majority I heard from were women who want the right to vote on this issue. I trust my constituents to vote their conscience, so my vote is yes.—KEVIN BRAUN

Mr. Vice President: I vote "NO" on **Senate Concurrent Resolution No. 1613**. Adding this Section 22 to the Bill of Rights in our Kansas Constitution would undermine the protections of natural rights recognized by the Kansas Supreme Court in Section 1 in that Bill of Rights. The Supreme Court was responding to a constitutional challenge to **SB 95** passed in 2015; that legislation eliminated a standard procedure for abortions that was safer for women than the alternatives. The Court remanded the decision back to the lower court, not eliminating all opportunities for legislation regarding abortion but rather requiring that, to be constitutional, there be a compelling state interest and that the regulation be narrowly tailored to further that interest. I believe that we as a legislature failed to protect the rights of women and also failed to provide the voters accurate explanatory statements to help them understand the issue.—
MARC FRANCISCO

Senator Sykes requests the record to show she concurs with the "Explanation of Vote" offered by Senator Francisco on **SCR 1613**.

Mr. Vice President: It's ironic that the SECOND bill rushed through the Senate Judiciary committee and through the 2020 Session in this Senate Chamber has a debate and, now, an "emergency final action" vote on the same day that 159 years ago Kansas was admitted into the Union of the United States of America. Today, "Kansas Day" is the annual day we celebrate, among other ideals, that our State, the Great State of Kansas, would be known as a "Free State" ... enshrined to the prospect of life, liberty and the pursuit of happiness and that within our territorial borders no man or woman would be enslaved. Our forefathers (and "foremothers" if you will) adopted the "Wyandotte Constitution" after fighting to overturn the Lecompton Compact which slavery supporters had attempted to make our State's governing law. The irony today to me, Mr. Vice President, is that today, Kansas Day, this Senate Concurrent Resolution which will attempt to put voters by popular vote decide whether slavery should be the law of Kansas' land back in the 1860's, I probably would vote 'NO' on allowing that 'democratic' vote that restricts the liberty of humans, too." As I have for the last two and a half decades consistently in the Kansas Legislature, Mr. Vice President, in support of the unfettered liberty for adults to make personal, safer decisions for themselves with as little governmental intrusion as possible, I proudly vote "NO" on **SCR 1613** and pray that the Kansas House will spare us having this regressive measure on some future ballot.—DAVID HALEY

Mr. Vice President: I vote "NO" on **SCR 1613**. I consider myself to be both pro-life and pro-choice. I have always respected my friends, family and legislative colleagues who have different opinions on this issue. However, this Constitutional amendment addresses a difficult, highly moral decision which I believe the government should not make on behalf of women. This issue becomes even more important when we look at the wording of our Kansas Constitution and the Bill of Rights. Our Bill of Rights states, "All men are possessed of equal and inalienable natural rights, among which are life, liberty and the pursuit of happiness." I believe our Supreme Court was correct in recognizing that the term "men" includes women, that those rights for everyone include personal autonomy, and that personal autonomy extends to decisions about pregnancy. I also believe that the Legislature still retains appropriate authority to regulate health care when there is a compelling state interest. However, I cannot support this amendment because of my deep belief in maintaining the basic rights guaranteed by the Kansas Constitution.—TOM HAWK

Senators Hensley, Pettey and Sykes request the record to show they concur with the "Explanation of Vote" offered by Senator Hawk on **SCR 1613**.

Mr. Vice President: "Dear Sir: So this morning I read a lovely article stating that our legislature is trying to pass an amendment to outlaw abortion. This amendment if passed would also give the legislature the right to pass other restrictions such as birth control. There are no provisions for the life of the mother, rape or incest in your amendment. Let me make this very clear your beliefs are just that. They are YOUR beliefs. Everyone has the right to body autonomy. That includes women. We have the right to choose what we do with our bodies. You do NOT have the right to take that away. Science does not hold with what some people believe concerning when life begins. A good portion of different religions do not hold with what some people believe concerning when life begins. Just as you don't have the right to force your religious beliefs on others, nor do you have the right to force what you believe about medical decisions on others. Unless you are willing to give up your rights, stay out of mine. So to be clear, unless I get to dictate when you are allowed to have a vasectomy, unless I get to charge you with a crime when you masturbate (cause you would be killing millions of potential babies), stay out of my uterus." Dear Constituent: I hear you, loud and clear! I vote "NO" on **SCR 1613**.—TOM HOLLAND

Mr. Vice President: Kansans deserve the right to make their own personal, private medical decisions without government interference. A constitutional amendment would allow increased government overreach into our private lives. These measures are a violation of the core principles my Catholic faith teaches, namely the priority of conscience, the importance of social justice and the respect for religious freedom. The Kansas Supreme Court reached a thoughtful and well-reasoned conclusion that protects every Kansan's right to personal autonomy. I vote "NO." —PAT PETTEY

Senator Haley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Pettey on **SCR 1613**.

Mr. Vice President: I am voting "NO" on this constitutional amendment. I want to focus on a specific problem I have with the language of the amendment and the lack of clarity in the explanatory statement. While supporters of this amendment point out that it does not change the regulations on what is legal in our state, it does empower the

legislature to change what is legal in the future. Specifically, the language would give the legislature the power to craft legislation denying access to abortion or healthcare for women even as a result of incest or rape. The amendment even explicitly claims that the legislature has the right to craft legislation in the heartbreaking circumstances where a woman and her family face the decision between the life of the mother or child. My own religious tradition which opposes abortion clearly allows these decisions to rest with the woman as she seeks medical and spiritual council. I cannot vote for this amendment based on promises from well meaning persons that future bills will never use the power this amendment grants.—DINAH SYKES

Senators Francisco, Hawk, Pettey and Ware request the record to show they concur with the "Explanation of Vote" offered by Senator Sykes on **SCR 1613**.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 58** be amended on page 1, in line 6, by striking "2018" and inserting "2019";

On page 4, in line 11, by striking "2018" and inserting "2019";

On page 5, in line 19, by striking "2018" and inserting "2019"; in line 30, by striking "2018" and inserting "2019";

On page 1, in the title, in line 2, by striking "2018" and inserting "2019"; and the bill be passed as amended.

On motion of Senator Denning, the Senate adjourned until 2:30 p.m., Thursday, January 30, 2020.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

