

SPECIAL SESSION

Journal of the Senate

SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, June 4, 2020, 8:00 a.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 39 senators present.

Senator Suellentrop was excused.

President Wagle introduced Rev. Dave DePue, Kansas Capitol Commission, to deliver the invocation:

Almighty God, You described Your Sovereignty in Colossians 1:16 ... over all things created, visible and invisible, thrones or dominions of principalities or power ... even this pestilence that is a scourge in our land and even the spirit of hate which denies people their dignity!

Lord, You gave Moses reassuring words in Deuteronomy 31:6, to share with Your leader Joshua and the people as they entered the promised land: "To be strong and courageous."

Now Lord, bless these leaders, these legislators who the people have sent to these chambers as our senators. Please give each a double portion of wisdom and discernment. Strengthen them for the work of this day and the days ahead. Give each a glimpse of the legacy that they are leaving the next generation of Kansans.

Lord, their work will take perseverance, but our cause is just! Please embolden them, empower them, bless them, give them honor!

This I pray in the Name of Jesus, Amen!

The Pledge of Allegiance was led by President Wagle.

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with President Wagle in the chair.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 9, AN ACT concerning property taxation; relating to buildings and improvements destroyed or substantially destroyed by natural disaster; amending K.S.A. 79-1613 and repealing the existing section, by Senator Braun.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 4** be passed.

Also, **SB 2** be amended on page 1, in line 7, by striking the comma and inserting a colon; in line 8, before the first quotation mark by inserting "(1)"; in line 9, before "building" by inserting "homestead or"; in line 10, by striking "(1)" and inserting "(A)"; also in line 10, by striking "(2)" and inserting "(B)"; following line 27, by inserting:

"(2) "Homestead" means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.";

Also on page 1, in line 29, after the second "property" by inserting "or any homestead"; in line 34, before "building" by inserting "homestead or";

On page 2, in line 1, before "building" by inserting "homestead or"; in line 3, before "building" by inserting "homestead or"; in line 6, before "building" by inserting "homestead or"; in line 10, before "building" by inserting "homestead or"; in line 13, before "building" by inserting "homestead or"; in line 27, before "whether" by inserting "whether the property is a homestead, as defined in subsection (a), whether the property is a building or improvement,"; also in line 27, before "building" by inserting "homestead or the"; in line 30, before "building" by inserting "homestead or"; in line 31, before "building" by inserting "homestead or"; and the bill be passed as amended.

Committee on **Education** recommends **SB 5** be passed.

Committee on **Judiciary** recommends **HB 2016**, as amended by House on Final Action, be passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Denning, an emergency was declared and the following bill: **HB 2016**, was advanced to that order of business Final Action on Bills and Concurrent Resolutions, subject to amendment, debate and roll call.

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

On roll call, the vote was: Yeas 29; Nays 8; Present and Passing 2; Absent or Not Voting 1.

Yeas: Berger, Billinger, Bowers, Braun, Denning, Doll, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kerschen, Longbine, Lynn, McGinn, Miller, Petersen, Pettey, Rucker, Skubal, Sykes, Taylor, Wagle, Ware, Wilborn.

Nays: Alley, Baumgardner, Estes, Hilderbrand, Olson, Pyle, Thompson, Tyson.

Present and Passing: Bollier, Masterson.

Absent or Not Voting: Suellentrop.

The motion passed.

Senator Denning made a motion to Call the Question.

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

On roll call, the vote was: Yeas 19; Nays 17; Present and Passing 3; Absent or Not Voting 1.

Yeas: Berger, Bowers, Denning, Doll, Faust-Goudeau, Givens, Goddard, Hardy, Hawk, Hensley, Holland, McGinn, Pettey, Rucker, Skubal, Taylor, Wagle, Ware, Wilborn.

Nays: Alley, Baumgardner, Bollier, Braun, Estes, Francisco, Haley, Hilderbrand, Kerschen, Masterson, Miller, Olson, Petersen, Pyle, Sykes, Thompson, Tyson.

Present and Passing: Billinger, Longbine, Lynn.

Absent or Not Voting: Suellentrop.

The motion passed.

HB 2016, AN ACT concerning governmental response to the 2020 COVID-19 pandemic in Kansas; providing certain relief related to health, welfare, property and economic security during this public health emergency; making and concerning appropriations for the fiscal years ending June 30, 2020, and June 30, 2021, for the governor's department; requiring the state finance council's approval for certain expenditures; relating to the state of disaster emergency; powers of the governor and executive officers; providing certain limitations and restrictions; business and commercial activities; violations of the Kansas emergency management act; relating to the closure of schools by executive order; requiring state board of education approval prior to any such closure; enacting the COVID-19 response and reopening for business liability protection act; relating to limitations on liability associated with the COVID-19 public health emergency; providing immunity from civil liability for certain healthcare providers during the COVID-19 public health emergency; providing an affirmative defense for adult care homes; enacting the COVID-19 contact tracing privacy act; relating to privacy of persons whose information is collected through contact tracing and the confidentiality of contact data; authorizing the secretary of health and environment and local health officers to establish and operate systems of contact tracing during the COVID-19 pandemic; validating certain notarial acts performed while the requirements that a person must appear before a notary public are suspended; requiring local health officers to share certain information with first responder agencies and 911 call centers; imposing requirements on the Kansas department for aging and disability services related to infection prevention and control practices and recommendations, infection control inspections and providing personal protective equipment; authorizing the expanded use of telemedicine in response to the COVID-19 public health emergency and imposing requirements related thereto; suspending certain requirements related to medical care facilities and expiring such provisions; providing for temporary suspension of certain healthcare professional licensing and practice requirements; delegation and supervision requirements; conditions of licensure and renewal and reinstatement of licensure; relating to authorized use of two-way electronic audiovisual communication by courts to secure the health and safety of court users, staff and judicial officers; authorizing the temporary sale of alcoholic liquor for consumption off of certain licensed premises; relating to changes in the employment security law in response to the COVID-19 public health emergency; eligibility for benefits;

contribution rates; federal reimbursement; employer notifications; shared work plan eligibility; authorizing counties to adopt orders relating to public health that are less stringent than statewide executive orders; relating to review, amendment or revocation of local disaster orders by the board of county commissioners; review, amendment or revocation of local disaster orders of a mayor by a city governing body; relating to local health officers; appointment, removal, powers and duties; providing for severability of this act; amending section 1 of 2020 House Substitute for Senate Bill No. 102, K.S.A. 48-924, 48-932, 48-939, 65-201, 65-202 and 65-468 and K.S.A. 2019 Supp. 19-101a, 41-2653, 44-702, 44-705, as amended by section 2 of 2020 Senate Bill No. 27, 44-709, 44-710, 44-757, 48-925 and 48-925, as amended by section 33 of this act, and repealing the existing sections.

On roll call, the vote was: Yeas 26; Nays 12; Present and Passing 1; Absent or Not Voting 1.

Yeas: Billinger, Bowers, Braun, Denning, Doll, Faust-Goudeau, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Kerschen, Longbine, Masterson, McGinn, Petersen, Pettey, Rucker, Skubal, Sykes, Taylor, Thompson, Wagle, Ware, Wilborn.

Nays: Alley, Baumgardner, Berger, Bollier, Estes, Hilderbrand, Holland, Lynn, Miller, Olson, Pyle, Tyson.

Present and Passing: Francisco.

Absent or Not Voting: Suellentrop.

The bill passed.

EXPLANATION OF VOTE

Madam President: Throughout the five days of Judiciary Committee hearings, I've spoken about the Crisis of Confidence within our state. This Crisis of Confidence isn't eased by this bill. In a debate over COVID liability, we assign immunity to some, an affirmative defense to others, and no protection for even more. The words from the KDHE Secretary, "Long-term care facilities are a critical component of Kansas's healthcare system and are unique as both healthcare providers and full-time homes for some of our most vulnerable citizens," ring hollow, knowing that the state is flush with supplies while these care facilities continue to have limited supply. Our Community Colleges and Technical Colleges are left to fend for themselves as they attempt to navigate COVID while serving students. The legislature has been backed in a corner by the governor. Her spokesman testified that she will veto this bill if amended to protect higher education, our care facilities, and testing for our first responders. The governor is calling on the legislature to join her in turning our backs on the colleges and care facilities that serve our communities and Kansans. While there are several positive aspects to this bill, I vote "NO."—MOLLY BAUMGARDNER

Senator Estes requests the record to show he concurs with the "Explanation of Vote" offered by Senator Baumgardner on **HB 2016**.

Madam President: Although supportive of the underlying bill, I cannot understand the exclusion of certain segments of our state. It is inconceivable that hospitals are given immunity and nursing homes are not. It is inconceivable that regent universities are protected but community and technical colleges are not. Winners and losers are being chosen. This is not in the best interests of Kansas and Kansans. Therefore, I with great gravity, vote no.—ED BERGER

Madam President: I supported **HB 2016** today and would like to explain my vote. We were called back to Topeka by Governor Kelly to rework our COVID-19 bill. Governor Kelly vetoed **HB 2054**, saying the bill was not properly debated and that our process was tainted. **HB 2016**, that was just passed, is very similar to the bill vetoed by Governor Kelly. Yes, the new bill has a few additional requirements and additional oversight. The main difference in the new bill and the vetoed bill are some of the protections in the original bill for our most vulnerable citizens. The new bill carves out the protections for the IDD (intellectual developmentally disabled) community workers. The bill also carves out protection for workers at the long-term care facilities. Our community colleges also lost their protections included in the original bill. There is no way to explain why the Governor has threatened to veto the new bill if protections for the nursing homes, the IDD community and community colleges are not left out. Governor: WHY –WHY –WHY do you refuse to protect our nursing home workers, the IDD community workers and our community colleges? I am especially concerned when KDADS mandate that long-term care facilities in Kansas cannot and should not turn away new residents or refuse to readmit previous residents for fear of COVID-19. It is unfathomable to me that you would allow infected COVID-19 patients into our long-term care facilities. Why would you do this? WHY? —RICK BILLINGER

Senator Baumgardner request the record to show she concurs with the "Explanation of Vote" offered by Senator Billinger on **HB 2016**.

Madam President: While I fully understand the extreme circumstances necessitating the need for the Governor's emergency orders and support those sections of the bill, that does not relieve us of careful evaluation and scrutiny of all parts of **HB 2016**. Subsection (h) of section 23 that allows any health care professional licensed in any state or territory to practice in Kansas without the need for a Kansas license or Kansas regulatory oversight has serious potential consequences. Under this subsection and absent criminal activity, no Kansas authority would have the jurisdiction to regulate the practice of these individuals. This creates a tremendous safety issue for the people of Kansas. I cannot support hastily crafted legislation that has been denied the opportunity to receive full debate and possible amendments. Additionally, those committing acts of negligence against others should be held accountable. The Covid-19 virus should not serve as an excuse to allow injury or harm without legal recourse. Thus, I vote NO on **HB 2016**.—BARBARA BOLLIER

Madam President: This bill as drafted does not have every provision I would have liked to see. It also includes several provisions I would like to be removed but as a member of a forty member Senate and a one hundred and sixty five member legislature I know that I will not always get every provision that I want. I have incredible respect for the eleven person Senate Judiciary Committee for their review of this bill. With that I am posed with a binary choice with the requirement to choose between yes and no. In my analysis of this bill I find that there are critical issues addressed in this bill that my constituents must have before the 2021 session to live their lives and run their businesses. For the sake of my constituents and all Kansans I am voting for business, I am voting for local control, I am voting to get Kansans back to work and back to their lives. I would like to note that I look forward to addressing my remaining concerns in this bill next session in the areas of: Long Term Care Center COVID specific immunity

coverage, Community College COVID specific immunity coverage, Contract Tracing, which thankfully expires May 1, 2021, adjustment to the Governors Emergency Declaration Powers and several other provisions. With the needs of my constituents and all Kansans ability to get their lives back to normal I vote yes.—KEVIN BRAUN

Senators Billinger, Goddard and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Braun on **HB 2016**.

Madam President: There are many items in this bill that I can support. I cannot support the state picking the winners and the losers, like we are doing with liability immunity. I do not support leaving nursing homes, IDD homes, long-term care homes, adult care homes, or community colleges out of the liability protection part of this legislation. I do not support allowing the state the ability to shut down businesses by labeling them essential or nonessential. If we are truly doing this for the safety of Kansans, we would label businesses safe and unsafe businesses. We would then give the businesses that the state deems to be unsafe the directions and guidelines to become safe, so that they can reopen, so that they can feed their families. I have concerns that it is the State Board of Education, and not the local school boards that get to make the decision on opening or closing their schools. I had concerns about contact tracing. I have concerns with why we are extending the emergency declaration out to September 15, 2020. Why is this date important and how did we choose this date? For these reasons I vote Nay on **HB 2016**.—RICHARD HILDERBRAND

Madam President: I vote "aye" on **HB 2016** because this is the only bill we will get to vote for. There is a very good tax plan that has been left out. I am most distressed about how our people in adult care centers are being treated in this bill. I can state my frustrations best with the following statement: we've been handed the music; the band is ready to play; but grandma doesn't get to sing.—DAN KERSCHEN

Madam President: Today I must make an impossible choice. I want to thank our esteemed Chairman, Senator Wilborn for the over 60 hours of discussions and votes to make this bill possible. As Chair of Senate Commerce Committee, I have the privilege of leading business policy for this State. It is and will always be my main focus of legislative work. As the youngest of four siblings, I have had the privilege of being the caretaker for both of my deceased parents, and now, for my sister a resident in a long-term care facility. I understand the challenge of care-taking loved ones and the poignant and sacred moments in the cycle of life. Today I choose to protect and venerate our most vulnerable in the sunset of their lives.—JULIA LYNN

Madam President: I hold to the simple premise that those committing acts of negligence against others should be held accountable for the harm and injury they cause to those they harm. I have asked several times and have yet to receive an answer to the question why acts of negligence arising from the COVID 19 virus are any less harmful to those that suffer the harm and why it is any less important those injured should not be compensated for their injury. Consequently, I vote "NO."—VIC MILLER

Senators Haley and Holland request the record to show they concur with the "Explanation of Vote" offered by senator Miller on **HB 2016**.

Madam President: This bill does not include the growing medical needs of Kansans

that Medicaid Expansion would address. This bill does not address the lockout for unemployment benefits that thousands of Kansans have been denied because of past actions of the legislature. This bill does help our governor and agencies continue to move forward due the unprecedented circumstances created by the COVID-19 pandemic. I vote YES.—PAT PETTEY

Senators Haley, Hawk, Sykes and Ware request the record to show they concur with the "Explanation of Vote" offered by Senator Pettey on **HB 2016**.

Madam President: For the last three months, people across Kansas have faced uncertainty. From one-size-fits-all executive orders to shifting and confusing phases... to evolving definitions of what is essential and non-essential... people in every part of our state have been asking for us to make a decision that reopens Kansas and provides clarity about the road ahead. We have 300,000 out of work and businesses that are not reopening. We cannot allow the economic carnage to continue. To be sure, there are aspects of the bill that are problematic. The protections for long term care facilities and nursing homes should have been stronger. Community colleges should be protected and sunset provisions should be certain. My overarching concern is that we cannot let this Governor do any more damage. Like other colleagues here...I want to rework every aspect of the emergency declaration orders in the next session. This bill is not perfect, but it does provide local control to county commissioners. It provides important checks and balances on the powers of the governor, including the expenditure of funds as well as any decision to close schools. It provides important liability protection for some Kansas businesses. Most of all, the bill provides some certainty for Kansans. For these reasons I reluctantly vote Yes on **HB 2016**.—MIKE THOMPSON

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was introduced and read by title:

SCR 1601—A CONCURRENT RESOLUTION relating to the 2020 special session of the legislature and providing for the adjournment thereof.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the legislature shall adjourn sine die at the close of business of the daily session convened on June 4, 2020.

On emergency motion of Senator Denning **SCR 1601** was adopted by voice vote.

REPORT ON ENROLLED BILLS

SR 1701 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on June 4, 2020.

As provided by **SCR 1601**, Senator Denning moved the Senate adjourn Sine Die. The motion prevailed.

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President Wagle thereupon announced: "By virtue of the authority vested in me as President of the Senate, I now declare the 2020 Special Session of the Legislature adjourned sine die."

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*



MESSAGE FROM THE HOUSE

Announcing adoption of **SCR 1601**.