

# Journal of the Senate

## FORTY-SEVENTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, March 22, 2022, 10:00 a.m.

The Senate was called to order by President Ty Masterson.  
The roll was called with 39 Senators present.  
Senator McGinn was excused.  
Invocation by Reverend Cecil T. Washington:

What Does The All-Knowing, All-Seeing God Perceive?  
Psalm 139:Lamentations 3:22

To our awesome God of Heaven and earth, Your Holy Word gives us firm permanent reminders that You are omniscient...all-knowing, that Your knowledge has no limits and like David, the hymn writer revealed in Psalm 139, we are the main focus of Your knowledge.

You know what we're thinking and You know our logic, Lord, You know what motivates us. You are acquainted with all our ways. There's not a word we utter that escapes Your ear or a thing we do that escapes Your sight. You see and hear everything, the good and the bad. Lord, help us do more of the good. Help us to be more like You created in Your image. Guide us in showing love and compassion to our neighbors, to those that are different, who think different and who look and act different.

Let today's date, March 22, 2022, remind us all day of Lamentations 3:22 so we can be like You. In spite of what You know about us, it says that Your unfailing love and mercy still continues fresh as the morning as sure as the sunrise.

Lord, I pray that on this day, Your eyes see acts of love and Your ears hear words of love. In the Name of Him Who loved us to death. Amen!

The Pledge of Allegiance was led by President Masterson.

### **POINT OF PERSONAL PRIVILEGE**

Senator Pittman rose on a Point of Personal Privilege to recognize LTC Frank Obermeyer, active duty officer in the German Army with a history in Armor having served in the allied combat theaters of Afghanistan and Iraq. He has come to Fort Leavenworth after serving on assignment in NATO headquarters in Brussels, Belgium. He is here with his wife Anne, daughters Lena and Emma and is attending the American Command and General Staff College (CGSC) for one year developing expertise and skill sets necessary for the effective management of German national forces in rapport with US military forces. Fort Leavenworth's CGSC has operated since 1895 and international military officers from around the world have come to Fort Leavenworth to

study military art and science and educate field grade officers to be agile, innovative and adaptive leaders within increasingly complex and uncertain environments. LTC Obermeyer stands as a representative of that program, especially the role of the over 120 international officers from over 90 different allied countries that come to Kansas. The son of a Diplomat from the northeast area of Germany in Mecklenburg Western Pomerania, we recognize the role these international officers have on behalf of their countries to the USA and vice versa the role that our local community and indeed our state has as ambassadors. Today we recognize the role LTC Obermeyer has in the German army where Germany has taken a leading role in NATO during the Ukraine crisis on the fronts of military, financial and humanitarian aid. We recognize the importance of our allies to the USA and its strategic military and economic interests. As we stand symbolically together to recognize LTC Obermeyer and the international officers in the Ft Leavenworth CGSC 2022 class, we reaffirm today our support of our international allies as we stand together as nations to promote freedom and to build a better global future for our kids.

#### **INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were introduced and read by title:

**SB 576**, AN ACT concerning reapportionment; relating to state board of education districts; providing for the reapportionment thereof; repealing K.S.A. 2021 Supp. 4-514 and 4-526, by Committee on Ways and Means.

**SB 577**, AN ACT concerning reapportionment; relating to state board of education districts; providing for the reapportionment thereof; repealing K.S.A. 2021 Supp. 4-514 and 4-526, by Committee on Ways and Means.

#### **REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to Committees as indicated:

Judiciary: **SB 572**, **SB 575**.

Redistricting: **SB 573**, **SB 574**.

#### **MESSAGE FROM THE HOUSE**

The House nonconcur in Senate amendments to **S Sub for HB 2361**, requests a conference and has appointed Representatives Owens, Smith E. and Highberger as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2057**, requests a conference and has appointed Representatives Barker, Arnberger and Ruiz, L. as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2087**, requests a conference and has appointed Representatives Barker, Arnberger and Ruiz, L. as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2005**, requests a conference and has appointed Representatives Highland, Orr and Vaughn as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2262**, requests a conference and has appointed Representatives Landwehr, Eplee and Ruiz, S. as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2109**, requests a conference and has appointed Representatives Patton, Ralph and Carmichael as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2387**, requests a conference and has appointed Representatives Patton, Ralph and Carmichael as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2508**, requests a conference and has appointed Representatives Patton, Ralph and Carmichael as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2075**, requests a conference and has appointed Representatives Patton, Ralph and Carmichael as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2478**, requests a conference and has appointed Representatives Proehl, Delperdang and Helgerson as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2540**, requests a conference and has appointed Representatives Clark, Ellis and Weigel as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2136**, requests a conference and has appointed Representatives Johnson, S., Croft and Neighbor as conferees on the part of the House.

#### **ORIGINAL MOTION**

On motion of Senator Olson, the Senate acceded to the request of the House for a conference on **HB 2005**.

The President appointed Senators Olson, Hilderbrand and Faust-Goudeau as conferees on the part of the Senate.

On motion of Senator Olson, the Senate acceded to the request of the House for a conference on **S Sub HB 2057**.

The President appointed Senators Olson, Hilderbrand and Faust-Goudeau as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2075**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Billinger, the Senate acceded to the request of the House for a conference on **HB 2087**.

The President appointed Senators Billinger, Claeys and Hawk as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2109**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Longbine, the Senate acceded to the request of the House for a conference on **HB 2136**.

The President appointed Senators Longbine, Fagg and Holscher as conferees on the part of the Senate.

On motion of Senator Hilderbrand, the Senate acceded to the request of the House for a conference on **S Sub HB 2262**.

The President appointed Senators Hilderbrand, Gossage and Pettey as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **S Sub HB 2361**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2387**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Petersen, the Senate acceded to the request of the House for a conference on **HB 2478**.

The President appointed Senators Petersen, Claeys and Hawk as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2508**.

The President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Olson, the Senate acceded to the request of the House for a conference on **HB 2540**.

The President appointed Senators Olson, Hilderbrand and Faust-Goudeau as conferees on the part of the Senate.

## FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**SB 340**, AN ACT concerning higher education; relating to the Kansas promise scholarship act; responsibilities of the state board of regents and postsecondary educational institutions; authorizing designation of additional eligible programs and fields of study; amending K.S.A. 2021 Supp. 74-32,271, 74-32,272, 74-32,273, 74-32,274, 74-32,275 and 74-32,276 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: McGinn.

The bill passed, as amended.

**SB 455**, AN ACT concerning education; relating to school attendance; allowing students to transfer to and attend school in any school district in the state; requiring school districts to set transfer capacity and adopt certain transfer policies; amending K.S.A. 72-13,101, 72-3122, 72-3123, 72-3124 and 72-3125 and repealing the existing sections, was considered on final action.

Upon the showing of five hands, a Call of the Senate was requested.

On roll call, the vote was: Yeas 23; Nays 16; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Claeys, Dietrich, Erickson, Fagg, Gossage, Hilderbrand, Kloos, Longbine, Masterson, O'Shea, Olson, Peck, Petersen, Pyle, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Billinger, Bowers, Corson, Doll, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Kerschen, Pettey, Pittman, Ryckman, Sykes, Ware.

Absent or Not Voting: McGinn.

The bill passed, as amended.

The Call was lifted.

#### EXPLANATION OF VOTE

Mr. President: I stand in support of **SB 455**, which allows students to transfer to and attend a school in another district. It is very unfortunate that so many unfounded fears and misrepresentations have been spread about this bill that was carefully vetted and amended in the Senate Education Committee. With **SB 455**, elected school boards will work with their administration to determine whether there is capacity for out-of-district students to transfer in. School districts in Kansas experiencing growth will never be required to take in students beyond their capacity. And out of state students are already attending Kansas border school districts, funded by state taxpayers at a .5 FTE rate. The focus of **SB 455** is to help parents find the best opportunities for learning for their child or children. As legislators, when return to your Senate districts and you speak to your constituents, to parents, teachers, principals and superintendents, don't perpetuate the lies that have been spread about **SB 455**.—MOLLY BAUMGARDNER

Senators Erickson, Gossage and Masterson request the record to show they concur with the "Explanation of Vote" offered by Senator Baumgardner on **SB 455**.

Mr. President: "Uprooting kids' lives – rather than strengthening their support system – like this legislation proposes will not lead to long-term success for Kansas kids. As with many bills considered by this body, this legislation is unnecessary. There are already processes for school districts with capacity to accept nonresident transfers. These processes should be left to these districts and their school boards to adequately address the needs of their students and communities. But its pointlessness is the point. By eroding this local control and making this the Legislature's business, we are placing a stake in this process so that we can eventually find problems and move toward privatizing our schools. I will not support legislation that furthers inequality in our schools or that threatens whether we are meeting our constitutional obligation to provide "equal access to substantially similar educational opportunity." I vote no."—DINAH SYKES

Senators Faust-Goudeau and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Sykes on **SB 455**.

**SB 484**, AN ACT concerning education; relating to student athletes; enacting the fairness in women's sports act; restricting participation on women's teams to female students; providing a cause of action for violations, was considered on final action.

Upon the showing of five hands, a Call of the Senate was requested.

On roll call, the vote was: Yeas 27; Nays 12; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Longbine, Masterson, O'Shea, Olson, Peck, Petersen, Pyle, Ryckman, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Dietrich, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Pettey, Pittman, Sykes, Ware.

Absent or Not Voting: McGinn.

The bill passed.

The Call was lifted.

#### EXPLANATION OF VOTE

Mr. President: I strongly support female athletics and the underlying intent of this legislation. I want to be clear, I do not support boys competing in girls sports. However, this bill applies to intramural sports sponsored by a school district for students Kindergarten through fifth grade. These students, both male and female, currently play and compete together. As a former Superintendent, I have seen first-hand the skills and confidence students gain when participating in these activities. While the intent of this bill may not be to eliminate opportunities like these for students; the reality is it does. This bill hurts my heart. Again, I strongly support creating fairness in women's athletics and don't think biological boys should be winning high school and college championships. That is simply wrong. However, the unintended consequence of eliminating opportunities for all students to participate in sporting activities is important to me and the people I represent. Therefore, I vote no on **SB 484**—BRENDA DIETRICH

Mr. President: Like last year, I voted to “PASS” for the ban on transgender women in women’s sports. Only now, mean-spiritedly compelled by a Call of the Senate, must I split my 50/50 deliberation to vote one way or another on this divisive measure. Accordingly, by a hair’s breadth, I vote “NO” on **SB 484**. Our Great State of Kansas can ill afford the stigma which is conferred on jurisdictions that are deemed discriminatory, insensitive and politically incorrect. Further, I predict that the future will judge those who have instituted such bans (when the federal government nullifies them) as Neanderthalistic and absolutely regressive in thought. Though I always have believed and fought for equality and inclusion for all people, at my heart I am an avowed feminist. Despite ingrained courtesies accorded women (like holding the door, etc.), women deserve equality and should *not* be subjected to some “superiority” or deference whether acknowledged in society through gender-prescribed and dominated customs *or* an inherent physical superiority on some field of play. Similarly, my record of advocating for identified transgender and LGBTQ issues (be it: marriage equality, bathrooms, hate crime sentencing, etc. ... you name it) is *without equal* in this Senate. I do not vote for any discriminatory measure; especially those seemingly generated by mean-spiritedness and/or sheer ignorance due to non-exposure of divergent populations. But, unlike even a swimming or weight-lifting contest or even track and field, the first time I see a woman’s boxing match and a transgendered woman punches a biological woman in the face it will go against everything I hold in my core belief down to my soul. There are undisputed physical differences in anatomical strengths between our respective biologies. Until we, as a society, are able to clearly delineate scientifically if such birth biological advantage has been significantly neutralized, as an admirer of women, I can not vote for a measure that may relegate many women to yet another

suppression by a man, albeit a transitioned one now a woman, in a sports-related contest. Oddly though, I am now compelled to do so in preservation of our State's opportunities and image as well as my belief that history will record it as the correct thing to do.—DAVID HALEY

Mr. President: The Kansas Legislature needs to stop bullying transgender kids. I vote NO on **SB 484**.—TOM HOLLAND

Senator Francisco requests the record to show she concurs with the "Explanation of Vote" offered by Senator Holland on **SB 484**.

Mr. President: Competitive high school and college sports are already regulated by KSHSAA and the NCAA to address trans athletes in competition and we should observe and evaluate their leadership as they develop rules that keep women's sports competitive and fair, especially at these competitive levels. **SB 484**, however, has been constructed to divide our voters. This bill unfairly targets elementary kids all the way down to kindergarten and originally contained genital inspections which goes too far for me. It targets a population in broad strokes that is at a higher risk of suicide. It has economic risks for Kansas with regard to factoring against us for NCAA, FIFA, and other tournaments. This bill on transgender athletes was a solution in search of a problem, as we have not had a problem here in Kansas and we should look for better frameworks to deal with this issue.—JEFF PITTMAN

Senator Francisco, Holscher and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Pittman on **SB 484**.

Mr. President: "This body was given multiple opportunities to make this legislation less harmful to Kansas kids, to narrowly tailor it to address the purported purpose of this bill which tells our kids that there is something wrong with who they are. It is a fact that transgender youths are at an increased risk of mental health problems and suicidal ideation. Pediatric endocrinologists and psychologists have time and again highlighted that legislation that calls into question trans kids' dignity has an adverse effect on their mental health. According to a survey from the Centers for Disease Control and Prevention, about 1.8% of high school students identify as transgender; 35% reported that they had attempted suicide. These concerns were called an "emotional distraction." I am sorry that these concerns are inconvenient for advocates for this legislation, but I am more sorry for the trans kids who for the second year in a row have been told by their elected leaders that they are a threat to their friends and teammates. I vote no."—DINAH SYKES

Senator Pettey requests the record to show she concurs with the "Explanation of Vote" offered by Senator Sykes on **SB 484**.

Mr. President: I vote YES on **SB 484**, Fairness in Women's Sports Act. It is as simple as its title. The hallmark of athletic competition is fairness. It's why we have different weight classes, age groups, and it's why we have women's sports to begin with. As the mother of four - three daughters and a son - this legislation is essential to preserve five decades of protections that women fought for. If we are serious about Title IX and the longstanding understanding of the Equal Protection Clause, we must support this bill.

Kansans know that there are physiological differences between the sexes that matter, and Kansans don't want their girls to lose opportunities to biological males. I will

always stand up to protect women.—KELLIE WARREN

**SB 496**, AN ACT concerning education; relating to schools and school districts; establishing the parents' bill of rights, was considered on final action.

Upon the showing of five hands, a Call of the Senate was requested.

On roll call, the vote was: Yeas 24; Nays 15; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Masterson, Olson, Peck, Petersen, Pyle, Ryckman, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Dietrich, Doll, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Longbine, O'Shea, Pettey, Pittman, Sykes, Ware.

Absent or Not Voting: McGinn.

The bill passed, as amended.

The Call was lifted.

#### EXPLANATION OF VOTE

Mr. President: I vote no on **SB 496** known as the "Parent's Bill of Rights." This bill was brought forward as a result of dark money groups working to undermine public schools and our teachers, and is not something actual parents of public school children have requested. Through decisions regarding this bill and others that are concerning, it has become apparent there is a huge disconnect between the reality of what happens in our public schools and the perspectives of our legislators. As the amendment that I brought forward yesterday requiring a week of volunteer work in a public school was not added on, today I will issue a challenge: "Can you do two?" In other words - can you volunteer for two days in a public school over our April break? Our break is a great time to get feedback from constituents and give back to the community. What better way to do that than volunteering for two days in a public school? The only requirements are that one day has to be in an elementary school and not on a Friday which is often field trip day. Bonus points for spending time with special needs children.—CINDY HOLSCHER

Mr. President: This "Parents' Bill of Rights" capitalizes on national figures' successful manipulation of parents' anxieties around learning and growing by suggesting that our public schools – which are subject to strict oversight by the state – are hiding nefarious materials used to brainwash our children. Really, this is a list of demands modeled after national legislation that co-opts civil rights language in order to undermine our public school teachers and districts that teach and care for Kansas kids. In the committee hearing on this bill, I asked for Kansas examples that this bill addresses, and Kansas public school parents that believe this is an urgent problem facing our schools. I have not received a single response to that request. Children deserve an honest and accurate education that enables them to learn from our past and help create a better future, and politically motivated legislators have no business stoking fears that will lead to further legislation undermining that goal.—DINAH SYKES

Senator Pettey requests the record to show she concurs with the "Explanation of Vote" offered by Senator Sykes on **SB 496**.

Mr. President: I voted aye on **SB 496**, the Parental Bill of Rights. For Kansas parents and their children, this bill codifies rights long recognized by the U.S. Supreme Court and federal law. Parents across the state are asking for their rights to be protected. This bill will promote parental engagement and is best for all Kansas kids.—KELLIE WARREN

**HB 2510**, AN ACT concerning insurance; relating to permissible investments made by life insurance companies; updating certain investment limitation requirements to provide increased options for Kansas domiciled life insurance companies investing in equity interests and preferred stock; amending K.S.A. 40-2b06 and 40-2b07 and repealing the existing sections, was considered on final action.

Upon the showing of five hands, a Call of the Senate was requested.

On roll call, the vote was: Yeas 37; Nays 2; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Nays: Steffen, Straub.

Absent or Not Voting: McGinn.

The bill passed, as amended.

The Call was lifted.

**HB 2564**, AN ACT concerning insurance; relating to the regulation thereof; pertaining to credit for reinsurance; risk-based capital requirements; updating requirements for when credit for reinsurance may be granted to an assuming insurer that is not licensed, accredited or certified to transact insurance or reinsurance in this state; updating the version of instructions in effect; amending K.S.A. 40-221a and 40-2c01 and repealing the existing sections, was considered on final action.

Upon the showing of five hands, a Call of the Senate was requested.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: McGinn.

The bill passed, as amended.

The Call was lifted.

## COMMITTEE OF THE WHOLE

On motion of Senator Alley, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Bowers in the chair.

**HB 2490** be passed.

**HCR 5022** be amended by the adoption of the committee amendments, and the concurrent resolution be adopted as amended.

The Committee rose and reported progress. (See Committee of the Whole afternoon session.)

On motion of Senator Alley, the Senate recessed until 2:30 p.m.

#### AFTERNOON SESSION

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

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2253; Sub HB 2447; HB 2600, HB 2632, HB 2644, HB 2734.**

Announcing passage of **SB 141; Sub SB 300; SB 330, SB 336, SB 417, SB 419, SB 440, SB 448, SB 483.**

Announcing passage of **Sub SB 34**, as amended; **SB 200**, as amended; **SB 215**, as amended; **SB 313**, as amended; **SB 331**, as amended; **SB 343**, as amended; **SB 346**, as amended; **SB 446**, as amended; **SB 451**, as amended; **SB 453**, as amended; **SB 479**, as amended.

Announcing passage of **SB 19**, as amended by **H Sub for SB 19; SB 28**, as amended by **H Sub for SB 28; SB 261**, as amended by **H Sub for SB 261.**

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2253; Sub HB 2447; HB 2600, HB 2632, HB 2644, HB 2734** were thereupon introduced and read by title.

#### CHANGE OF REFERENCE

The President withdrew **HB 2582** from the Committee on **Judiciary**, and referred the bill to the Committee on **Public Health and Welfare**.

The President withdrew **S Sub HB 2380** from the Committee on **Financial Institutions and Insurance**, and referred the bill to the Committee on **Ways and Means**.

The President referred **HB 2253** to the Committee on **Public Health and Welfare**.

#### COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for consideration of bills under the heading of General Orders with Senator Bowers in the Chair.

On motion of Senator Bowers, the report for the morning and the following afternoon session was adopted.

**HB 2110, HB 2462, HB 2481, HB 2547, HB 2568** be passed.

**HB 2559** be amended by motion of Senator Francisco; on page 2, in line 8, by striking "seven" and inserting "three";

On page 3, in line 11, by striking "Attempt to"; also in line 11, by striking ", if practicable,"

and **HB 2559** be passed as amended.

Motions offered by Senators Peck, Steffen and Straub to amend **HB 2559** failed.

**SCR 1619, SCR 1621; HCR 5030** be adopted.

A motion by Senator Pyle to amend **SCR 1621** failed, and the following amendment was rejected; on page 1, in line 12, after "5" by inserting ", 8"; by striking all in lines 14

through 36;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 7; following line 7 by inserting:

**""§ 5. Selection of justices of the supreme court.** (a) Any vacancy occurring in the office of any justice of the supreme court and any position to be open thereon as a result of enlargement of the court, or the retirement or failure of an incumbent to file his declaration of candidacy to succeed himself as hereinafter required, or failure of a justice to be elected to succeed himself, resignation or removal of a justice, shall be filled by appointment by the governor of one of three persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission established as hereinafter provided election at the next general election. Such election shall be partisan and from the state as a whole. Except as otherwise provided in this section, election laws applicable to other state officers elected from the state as a whole shall apply to the nomination and election of justices of the supreme court. Each justice of the supreme court elected as provided by law shall hold office for a term of six years. Such term shall commence on the second Monday in January following the general election. Justices of the supreme court may seek reelection.

(b) In event of the failure of the governor to make the appointment within sixty days from the time the names of the nominees are submitted to him, the chief justice of the supreme court shall make the appointment from such nominees. Each justice of the supreme court in office at the time this amendment takes effect shall hold office for the term for which such justice was retained in office by election, or hold office for the initial term for which such justice was appointed, and until a successor is elected and qualified. The office that such justice holds shall be open upon the expiration of such justice's term of office or upon the retirement, resignation or removal of such justice, whichever occurs first. Such justice shall be eligible for election to such office in the manner prescribed in this section, unless by law such justice is compelled to retire or such justice retired, resigned or was removed from such office.

(c) Each justice of the supreme court appointed pursuant to provisions of subsection (a) of this section shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of twelve months in office. Not less than sixty days prior to the holding of the general election next preceding the expiration of his term of office, any justice of the supreme court may file in the office of the secretary of state a declaration of candidacy for election to succeed himself. If a declaration is not so filed, the position held by such justice shall be open from the expiration of his term of office. If such declaration is filed, his name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows:

"Shall \_\_\_\_\_

(Here insert name of justice.)

\_\_\_\_\_ (Here insert the title of the court.)

be retained in office?"

If a majority of those voting on the question vote against retaining him in office, the position or office which he holds shall be open upon the expiration of his term of office; otherwise he shall, unless removed for cause, remain in office for the regular term of six

years from the second Monday in January following such election. At the expiration of each term he shall, unless by law he is compelled to retire, be eligible for retention in office by election in the manner prescribed in this section.

(d) ~~A nonpartisan nominating commission whose duty it shall be to nominate and submit to the governor the names of persons for appointment to fill vacancies in the office of any justice of the supreme court is hereby established, and shall be known as the "supreme court nominating commission." Said commission shall be organized as hereinafter provided.~~

(e) ~~The supreme court nominating commission shall be composed as follows: One member, who shall be chairman, chosen from among their number by the members of the bar who are residents of and licensed in Kansas; one member from each congressional district chosen from among their number by the resident members of the bar in each such district; and one member, who is not a lawyer, from each congressional district, appointed by the governor from among the residents of each such district.~~

(f) ~~The terms of office, the procedure for selection and certification of the members of the commission and provision for their compensation or expenses shall be as provided by the legislature.~~

(g) ~~No member of the supreme court nominating commission shall, while he is a member, hold any other public office by appointment or any official position in a political party or for six months thereafter be eligible for nomination for the office of justice of the supreme court. The commission may act only by the concurrence of a majority of its members.~~

**"§ Sec. 8. Prohibition of political activity by justices and certain judges.** No justice of the supreme court who is appointed or retained under the procedure of section 5 of this article, nor any judge of the district court holding office under a nonpartisan method authorized in subsection (a) of section 6 of this article; shall directly or indirectly make any contribution to or hold any office in a political party or organization or take part in any political campaign.";

Also on page 4, by striking all in lines 20 through 43; following line 43, by inserting:

""Explanatory statement. The purpose of this amendment is to provide for election of justices of the supreme court and to eliminate the supreme court nominating commission. Future justices would be elected in partisan, statewide elections. Each justice elected would hold office for a term of six years and would be allowed to seek reelection.

"A vote for this proposition would cause justices of the supreme court to be elected in partisan, statewide elections for terms of six years.

"A vote against this proposition would continue the current system in which justices of the supreme court are appointed by the governor from a list of three individuals submitted by the supreme court nominating commission."";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "5" by inserting ", 8"; in line 3, by striking "senate confirmation" and inserting "direct partisan election"

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

On roll call, the vote was: Yeas 10; Nays 24; Present and Passing 3; Absent or Not Voting 3.

Yeas: Hilderbrand, Kerschen, Olson, Peck, Petersen, Pyle, Straub, Thompson, Tyson, Warren.

Nays: Alley, Bowers, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Holscher, Longbine, Masterson, O'Shea, Pettey, Pittman, Ryckman, Steffen, Suellentrop, Sykes, Ware, Wilborn.

Present and Passing: Baumgardner, Holland, Kloos.

Absent or Not Voting: Billinger, Claeys, McGinn.

A motion by Senator Pyle to amend **SCR 1621** failed, and the following amendment was rejected; on page 1, in line 12, by striking "Sections" and inserting "Section"; also in line 12, by striking "and 15"; in line 20, by striking "be elected to"; in line 21, after "office" by inserting "by senate confirmation"; in line 25, by striking "a person"; in line 26, by striking all before the period and inserting "one of three persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission established as hereinafter provided"; in line 32, by striking "date such vacancy occurred or such"; in line 33, by striking all before the comma and inserting "time the names of the nominees are submitted to the governor"; in line 34, before the comma by inserting "from such nominees"; in line 35, by striking ", of a person possessing the qualifications of office";

On page 2, in line 17, by striking "governor" and inserting "supreme court nominating commission"; in line 18, by striking all after "shall"; in line 19, by striking all before "such" and inserting "nominate and submit the names of three persons possessing the qualifications of office to the governor, and a subsequent appointment shall be made as provided in subsection (a)."; in line 29, by striking "provisions of"; also in line 29, by striking "of this section"; in line 30, by striking "an initial" and inserting "a"; in line 31, by striking "first"; in line 32, by striking "twelve months" and inserting "six years"; in line 34, by striking all after "(2)"; in line 35, by striking "election" and inserting "On or before the eighth calendar day of the regular legislative session"; in line 36, by striking all after "file"; in line 37, by striking all before "a" and inserting "with the secretary of the senate"; in line 41, by striking the second "such"; by striking all in lines 42 and 43;

On page 3, by striking all in lines 1 through 6 and inserting "the senate shall vote to consent to the retention in office not later than sixty days after such declaration is received by the senate. If the senate fails to vote on the retention in office within the time limitation imposed by this subsection, the senate shall be deemed to have given consent to retaining such justice in office."; in line 8, by striking all after "(3)" and inserting "In the event that a majority of the senate does not vote to consent to"; in line 13, by striking all after the first "the"; in line 14, by striking all before the period and inserting "term provided in this subsection"; in line 16, by striking "election" and inserting "senate confirmation"; in line 42, by striking all after "(4)";

On page 4, by striking all in line 1; in line 2, by striking all before "to" and inserting "In the event that a majority of the senate does not vote to consent to retaining a justice in office, the secretary of the senate shall report such result"; following line 7, by inserting:

"(d) A nonpartisan nominating commission, whose duty shall be to nominate and submit to the governor the names of persons for appointment to fill vacancies in the office of any justice of the supreme court, is hereby established and shall be known as the "supreme court nominating commission." The commission shall be organized as hereinafter provided.

(e) The supreme court nominating commission shall be composed as follows: One

member, who shall be the chairperson, chosen from among their number by the members of the bar who are residents of and licensed in Kansas; one member from each congressional district chosen from among their number by the resident members of the bar in each such district; one member, who is not a lawyer, from each congressional district, appointed by the governor from among the residents of each such district; two members appointed by the president of the senate; and two members appointed by the speaker of the house of representatives.

(f) The terms of office, the procedure for selection and certification of the members of the commission and provision for their compensation or expenses shall be as provided by the legislature.

(g) While a member, no member of the supreme court nominating commission shall hold any other public office by appointment or any official position in a political party, or for six months thereafter, be eligible for nomination for the office of justice of the supreme court. The commission may act only by the concurrence of a majority of the commission's members.";

Also on page 4, by striking all in lines 8 through 16; in line 17, by striking all before the quotation mark; in line 22, by striking "supreme court nominating commission" and inserting "process of retention in office by election and require retention in office by senate confirmation"; in line 23, by striking "a qualified person" and inserting "one of three persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission"; in line 25, by striking "appoint a qualified person" and inserting "make the appointment from such nominees"; in line 28, by striking all after the comma; in line 29, by striking "person" and inserting "the nomination and appointment process is repeated"; in line 34, after the period by inserting "Justices will hold office for a term ending on the second Monday in January following the general election that occurs after the expiration of six years in office and will be subject to retention in office by senate confirmation. The amendment would also expand the supreme court nominating commission from nine members to 13 members by adding two members appointed by the president of the senate and two members appointed by the speaker of the house of representatives."; in line 35, by striking all after "would"; in line 36, by striking all before "provide"; in line 38, after "justice" by inserting "from a list of three individuals submitted by the supreme court nominating commission"; in line 39, after the period by inserting "Justices will hold office for a term ending on the second Monday in January following the general election that occurs after the expiration of six years in office and will be subject to retention in office by senate confirmation. The amendment would also expand the supreme court nominating commission from nine members to 13 members by adding two members appointed by the president of the senate and two members appointed by the speaker of the house of representatives."; in line 43, before the period by inserting "and are not subject to senate confirmation. Justices will continue to be subject to retention in office by election and hold office for a regular term of six years ending on the second Monday in January following the general election at which such justice is retained in office by the electors. The supreme court nominating commission will remain at nine members";

On page 1, in the title, in line 1, by striking "sections" and inserting "section"; also in line 1, by striking "and 15"; in line 3, by striking all after the second semicolon; in line 4, by striking all before the period and inserting "eliminating the process of retention in

office by election and requiring retention in office by senate confirmation; increasing the number of members on the supreme court nominating commission"

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

On roll call, the vote was: Yeas 7; Nays 29; Present and Passing 2; Absent or Not Voting 2.

Yeas: Bowers, Dietrich, Francisco, Pittman, Pyle, Straub, Tyson.

Nays: Alley, Baumgardner, Claeys, Corson, Doll, Erickson, Fagg, Faust-Goudeau, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Longbine, Masterson, O'Shea, Peck, Petersen, Pettey, Ryckman, Steffen, Suellentrop, Sykes, Thompson, Ware, Warren, Wilborn.

Present and Passing: Kloos, Olson.

Absent or Not Voting: Billinger, McGinn.

**SCR 1620** be amended by the adoption of the committee amendments, and the concurrent resolution be adopted as amended.

**HB 2363, HB 2476, HB 2489, HB 2595, HB 2605, HB 2703** be amended by the adoption of the committee amendments, and the bills be passed as amended.

**SB 438** be amended by the adoption of the committee amendments, be further amended by motion of Senator Hilderbrand; on page 1, in line 18, after the semicolon by inserting "and"; in line 19, by striking all after "(4)"; by striking all in line 20; in line 21, by striking "(5)"

and **SB 438** be passed as further amended.

**SB 546** be amended by the adoption of the committee amendments, be further amended by motion of Senator Hawk; on page 2, in line 36, by striking the second "and"; in line 37, after "(5)" by inserting "a conventional human driver shall be required to be physically present in every driverless-capable vehicle that provides transportation services for riders pursuant to K.S.A. 8-2701 et seq., and amendments thereto, for the first 24 consecutive months from the date that an entity places driverless-capable vehicles into service in this state; and

(6) except as otherwise provided in paragraph (5),";

On page 4, in line 32, before "A" by inserting "Subject to the provisions of section 2, and amendments thereto,"

and **SB 546** be passed as further amended.

**SB 541** be amended by the adoption of the committee amendments, be further amended by motion of Senator Hilderbrand; on page 3, in line 30, by striking the first comma and inserting "or"; also in line 30, by striking "or limits religious gatherings";

On page 5, following line 39, by inserting:

"New Sec. 4. Notwithstanding any provision of law to the contrary, a governmental entity or public official shall not:

- (a) Restrict the manner of any worship service or activity in any way in this state;
- (b) suspend, regulate or prohibit the conduct of any worship service or activity in this state, regardless of whether the worship service or activity is conducted inside a building, inside a temporary structure or outdoors; or
- (c) limit the number of participants of any worship service or activity in this state, other than by enforcing limitations on the number of persons in a building imposed by fire codes.";

On page 17, in line 11, by striking "section 3" and inserting "sections 3 and 4";

On page 18, in line 10, by striking the second comma and inserting "or"; in line 11,

by striking "or limits religious gatherings";

On page 20, in line 1, by striking "section 3" and inserting "sections 3 and 4"; in line 4, by striking the comma and inserting "or"; in line 5, by striking "or limiting religious gatherings";

On page 21, in line 34, by striking "section 3" and inserting "sections 3 and 4";

And by renumbering sections accordingly;

On page 1, in the title, in line 6, after the semicolon by inserting "prohibiting a governmental entity or public official from restricting worship services or activities;"; in line 8, by striking the comma and inserting "and"; also in line 8, by striking all after "restrictions"

**SB 541** be further amended by motion of Senator Steffen; on page 20, in line 2, by striking "to issue" and inserting "for"; in line 3, before "limiting" by inserting "to be issued"; in line 10, after "effective" by inserting "only"; also in line 10, after "if" by inserting ":

(i); in line 13, after "disability" by inserting "; and

(ii) a declared state of disaster emergency under K.S.A. 48-924, and amendments thereto, or a declared state of local disaster emergency under K.S.A. 48-932, and amendments thereto, is currently in effect"; also in line 13, by striking "Such" and inserting:

"(B) An"; also in line 13, after "order" by inserting "approved pursuant to subparagraph (A)"; also in line 13, after "shall" by inserting ":

(i) Be rescinded upon the expiration of a declared state of disaster emergency under K.S.A. 48-924, and amendments thereto, or a declared state of local disaster emergency under K.S.A. 48-932, and amendments thereto; and

(ii);

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 23; Nays 11; Present and Passing 1; Absent or Not Voting 5.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Erickson, Fagg, Gossage, Hilderbrand, Kloos, Masterson, O'Shea, Peck, Petersen, Pyle, Ryckman, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Dietrich, Haley, Hawk, Holland, Holscher, Kerschen, Pettey, Pittman, Sykes, Ware.

Present and Passing: Francisco.

Absent or Not Voting: Doll, Faust-Goudeau, Longbine, McGinn, Olson.

and **SB 541** be passed as further amended.

A motion by Senator Pettey to amend **SB 541** failed.

**SB 351** be amended by the adoption of the committee amendments, be further amended by motion of Senator Francisco; on page 1, following line 17, by inserting:

"New Section 1. (a) The secretary of state, in consultation with county election officers, shall develop an affidavit system to be utilized for the transfer of ballots. Each person who transfers ballots for a county election office shall be required to sign an affidavit listing, if applicable, the:

(1) Number of blank ballots;

(2) number of spoiled ballots;

- (3) number of provisional ballots;
- (4) number of counted ballots;
- (5) number of advanced ballots in envelopes;
- (6) name of the person to whom such ballots were delivered; and
- (7) location of where the ballots were delivered.

(b) The affidavit system developed under this section shall apply to all ballots delivered, collected and transferred by county election offices prior to, on and after the date of an election and shall operate in conjunction with the provisions of K.S.A. 25-2707, 25-2708 and 25-2709, and amendments thereto, regarding transporting, preserving and destroying ballots and election records.

(c) (1) It shall be a violation of this section to alter any information provided in an affidavit or provide false information in an affidavit with the intent to hinder, prevent or defeat a fair election.

- (2) A violation of this section is a severity level 9, nonperson felony.";
- And by renumbering sections accordingly;

On page 1, in the title, in line 12, after the semicolon by inserting "transfer of ballots by election workers; requiring the secretary of state and county election officers to develop an affidavit to be signed by such workers listing certain information;"

and **SB 351** be passed as further amended.

A motion by Senator Francisco to amend **SB 351** failed.

The committee report on **HB 2458** recommending **S Sub HB 2458** be adopted, and the substitute bill be passed.

The committee report on **HB 2567** recommending **S Sub HB 2567** be adopted, and the substitute bill be passed.

The committee report on **S Sub for HB 2416** recommending **S Sub HB 2416** be adopted.

Senator Francisco moved, in accordance with Senate Rule 27, to divide the question on **S Sub HB 2416** into two parts. Part one was retained. Part two was rejected.

**S Sub HB 2416** be passed over and retain a place on the calendar.

### CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

On motion of Senator Baumgardner the Senate nonconcurrred in the House amendments to **SB 215** and requested a conference committee be appointed.

The President appointed Senators Baumgardner, Erickson and Sykes as a conference committee on the part of the Senate.

On motion of Senator Kerschen the Senate nonconcurrred in the House amendments to **H Sub SB 261** and requested a conference committee be appointed.

The President appointed Senators Kerschen, Ryckman and Ware as a conference committee on the part of the Senate.

On motion of Senator Petersen the Senate nonconcurrred in the House amendments to **SB 313** and requested a conference committee be appointed.

The President appointed Senators Petersen, Claeys and Hawk as a conference committee on the part of the Senate.

On motion of Senator Longbine the Senate nonconcurrred in the House amendments to **SB 331** and requested a conference committee be appointed.

The President appointed Senators Longbine, Fagg and Holscher as a conference committee on the part of the Senate.

On motion of Senator Hilderbrand the Senate nonconcurred in the House amendments to **SB 343** and requested a conference committee be appointed.

The President appointed Senators Hilderbrand, Gossage and Pettey as a conference committee on the part of the Senate.

On motion of Senator Petersen the Senate nonconcurred in the House amendments to **SB 446** and requested a conference committee be appointed.

The President appointed Senators Petersen, Claeys and Hawk as a conference committee on the part of the Senate.

On motion of Senator Hilderbrand the Senate nonconcurred in the House amendments to **SB 453** and requested a conference committee be appointed.

The President appointed Senators Hilderbrand, Gossage and Pettey as a conference committee on the part of the Senate.

#### REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **HB 2712** be passed.

Also, **HB 2380** be amended by substituting with a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2380," as follows:

"Senate Substitute for HOUSE BILL NO. 2380

By Committee on Ways and Means

"AN ACT concerning vehicles; relating to registration and titles; increasing fees for certain services provided by county treasurers and the division of vehicles; decreasing fees associated with administrative costs for such services; modifying the disposition of certain registration and titling fees; eliminating the division of vehicles modernization surcharge; amending K.S.A. 74-2013 and 79-3604 and K.S.A. 2021 Supp. 8-132, 8-135, 8-135a, 8-139, 8-143, 8-143j, 8-145, 8-145d, 8-167, 8-170, 8-172, 8-195, 8-198 and 58-4204 and repealing the existing sections; also repealing K.S.A. 75-5160.";

And the substitute bill be passed.

On motion of Senator Alley, the Senate adjourned until 10:00 a.m., Wednesday, March 23, 2022.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

