

Journal of the Senate

FORTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 18, 2020, 8:00 a.m.

The Senate was called to order by Vice President Longbine.
The roll was called with 39 senators present.
Senator Wagle was excused.
Invocation by Reverend Cecil T. Washington:

Some Qualities of God That Encourage Us!
Psalm 139:1-12, Jeremiah 32:17

Lord, You are the God of Heaven, Earth and all that is therein. When we consider Your attributes; the qualities You possess, we can recognize that You're the only One capable of meeting all our needs. These attributes unquestionably establish You as God, and give us a reason for hope and optimism.

You prove to be Omniscient! According to Psalm 139:1-6, You know everything there is to know about everything. There's nothing You need to learn. You know everything exhaustively and You know everything truly without any mixture of error. Therefore we can trust You to know each of us precisely and to know everything we need. You are our God!

You also prove to be Omnipresent! By Your Spirit, You're everywhere simultaneously. The Psalmist declared in Psalm 139:7-12 that You fill the Heavens and earth. So, when we are here, there or anywhere, we can be confident You are with us. You are our God!

Thirdly Lord, In Jeremiah 32:17, You prove to be Omnipotent; You are all powerful! By Your great power You created the Heavens and the Earth. So no problem we face is too hard for You to handle. You are our God!

But Lord, with all that being said, remind us to be careful and use wisdom. Keep us from getting cocky and presumptuous. As You do Your part to supernaturally keep us safe, keep us mindful to do our part. And with Your help, we'll continue to serve. I thank You for doing Your part. In Jesus' Name, Amen.

The Pledge of Allegiance was led by Vice President Longbine.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 502, AN ACT concerning income taxation; providing a checkoff for contributions to the Kansas historic site fund, by Committee on Assessment and Taxation.

CONSIDERATION OF APPOINTMENTS

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

Senator Denning moved the following appointment be confirmed as recommended by the Committee on **Financial Institutions and Insurance**.

By the Governor

On the appointment to the:

State Banking Board:

Justin Nichols, Term ends March 15, 2023

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

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Thompson, Tyson, Ware, Wilborn.

Absent or Not Voting: Wagle.

The appointment was confirmed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Denning, **HCR 5025** was advanced to Final Action subject to amendment, debate, and roll call.

HCR 5025 be amended by motion of Senator Denning: on page 1, in line 22, by striking all after "through"; by striking all in line 23; in line 24, by striking all before the period and inserting "May 1, 2020, subject to additional extensions by concurrent resolution of the Legislature or as further provided in this concurrent resolution. If the Legislature is not in session, upon specific application by the Governor to the State Finance Council, the State Finance Council may authorize additional extensions of such state of disaster emergency by a majority vote of the legislative members thereof for specified periods not to exceed 30 days each";

Also on page 1, in the title, in line 4, by striking "January 25, 2021" and inserting "May 1, 2020, subject to additional extensions of time"

HCR 5025 be further amended by motion of Senator Pyle; on page 1, in line 24, after "thereto" by inserting "; and

Be it further resolved: That, for the purposes of this ratification, the Governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition pursuant to K.S.A. 2019 Supp. 48-925(c)(8) or any other executive authority";

Also on page 1, in the title, in line 2, after "declaration" by inserting ", subject to limitations."

HCR 5025 be further amended by motion of Senator Tyson; on page 1, in line 24, after "thereto" by inserting "; and

Be it further resolved: That, for the purposes of this ratification, the Governor shall not have the power or authority to: (1) Utilize all available resources of the state

government and of each political subdivision as reasonably necessary to cope with the disaster pursuant to K.S.A. 2019 Supp. 48-925(c)(2) or any other executive authority; (2) subject to any applicable requirements for compensation under K.S.A. 48-933, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster pursuant to K.S.A. 2019 Supp. 48-925(c)(4) or any other executive authority; (3) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein pursuant to K.S.A. 2019 Supp. 48-925(c)(7) or any other executive authority; (4) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles pursuant to K.S.A. 2019 Supp. 48-925(c)(8) or any other executive authority; or (5) perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population pursuant to K.S.A. 2019 Supp. 48-925(c)(11) or any other executive authority";

Also on page 1, in the title, in line 2, after "declaration" by inserting ", subject to limitations,"

Senator Lynn moved to call the question. The amendment was adopted on voice vote.

HCR 5025, A CONCURRENT RESOLUTION ratifying the March 12, 2020, State of Disaster Emergency declaration, subject to limitations, issued by Governor Laura Kelly and providing for the continuation thereof for the entire 105 counties of Kansas through May 1, 2020, subject to additional extensions of time, 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, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Thompson, Tyson, Ware, Wilborn.

Nays: Francisco, Miller.

Absent or Not Voting: Wagle.

The resolution was adopted, as amended.

The Call of the Senate was lifted.

EXPLANATION OF VOTE

Mr. Vice President: While I vote "AYE" on **HCR 5025**, I do not support the third amendment that was added. To pass "...the Governor shall not have the power or authority to...(5) perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population..." is beyond comprehension.—BARBARA BOLLIER

Mr. Vice President: I RELUCTANTLY VOTE "AYE" ON **HCR 5025**. For some to continue to deny the regrettable spread of the COVID-19 (aka "novel coronavirus") across our land is foolish and, as a legislative body, to not act swiftly, and proactively, wholly irresponsible. Whatever the inevitable health, social and even economic outcome totals from this outbreak become, preventative measures, in consultation with

emergency management and respected health care administrators, should be our united response to swiftly provide and to enact reasonable protocols. **HCR 5025** as originally drafted and introduced was crafted correctly to address and avert further crisis. One would think that empowering any executive branch; be it local (mayor), state(governor) or federal (president), to implement most timely of responses should be the automatic chorus of any body politic. Amended, **HCR 5025** frustrates the concept of our Governor to utilize best practices with broad latitude. A now hollowed, anemic resolution is a juvenile offering to an epidemic requiring mature action. Recognizing that we need to provide direct legislative affirmation as found in the original resolution but not wanting to support near-meaningless which is, in my opinion, what this now amended resolution is, I voted to "PASS" on final action until now, compelled only by the Senate, to decide and vote AYE.—DAVID HALEY

Senator Pettey requests the record to show she concurs with the "Explanation of Vote" offered by Senator Haley on **HCR 5025**.

ORIGINAL MOTION

Having voted "NO" on the previous day on **H Sub SB 27**, Senator Suellentrop requested to change his vote to "AYE."

Having voted "Pass" the previous day on **H Sub SB 27**, Senator Billinger requested to change his vote to "AYE."

MESSAGES FROM THE GOVERNOR

Enclosed is Executive Order 20-07 for your information. (March 17, 2020)

The Vice President announced that this document is on file in the office of the Secretary of the Senate and available for review at any time. services.

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

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing adoption of **HR 6031**. A RESOLUTION disapproving Executive Reorganization Order No. 46, establishing the Kansas energy office and transferring the powers, duties and functions of the energy division of the state corporation commission as described in K.S.A. 74-616(a) through (d), 74-617, 74-622, 75-37,125 and 75-37,129 to the Kansas energy office.

Announcing adoption of **HR 6032**, A RESOLUTION disapproving Executive Reorganization Order No. 44, renaming the Kansas department for children and families the Kansas department of human services; abolishing the Kansas department for aging and disability services and transferring powers, duties and functions to the Kansas department of human services; and transferring the powers, duties and functions of the department of corrections regarding the juvenile services program and certain juvenile facilities and institutions to the Kansas department of human services.

The House accedes to the request of the Senate for a conference on **H Sub for SB 173** and has appointed Representatives Waymaster, Proehl and Wolfe Moore as conferees on the part of the House.

On motion of Senator Denning, the Senate recessed until 4:30 p.m..

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

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **HCR 5025**, requests a conference and has appointed Representatives Finch, Mason and Sawyer as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Wilborn, the Senate acceded to the request of the House for a conference on **HCR 5025**.

The Vice President appointed Senators Wilborn, Rucker and Hensley as conferees on the part of the Senate.

On motion of Senator Denning, the Senate recessed until 7:30 p.m..

EVENING SESSION

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

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **HB 2432**, **HB 2464**, **HB 2575** as amended by House Committee of the Whole, be passed.

Committee on **Education** recommends **HB 2346**, as amended by House Committee, be amended by substituting with a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2346," as follows:

"Senate Substitute for HOUSE BILL NO. 2346
By Committee on Education

"AN ACT concerning education; relating to schools; requiring a Kansas foster care children academic report card; authorizing school districts to pay tuition and fees for concurrent or dual enrollment courses; providing ACT college entrance exams and workkeys assessments to students enrolled in accredited nonpublic schools; relating to the calculation of capital improvement state aid; amending K.S.A. 72-3220, 72-3221, 72-3222, 72-3223, 72-3224, 72-6241, 72-6242 and 75-53,112 and K.S.A. 2019 Supp. 72-5179 and 72-5462 and repealing the existing sections."; and the substitute bill be passed.

Also, **2487** be amended by substituting with a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2487," as follows:

"Senate Substitute for HOUSE BILL NO. 2487
By Committee on Education

"AN ACT concerning individuals with disabilities; relating to services provided for individuals with disabilities; modifying the authority of and registering interpreters with

the Kansas commission for the deaf and hard of hearing; enacting the audiology and speech-language pathology interstate compact; providing disability placards to school districts, interlocal cooperatives, postsecondary educational institutions and institutions under the direction of the department for aging and disability services; updating references to emotional disability; amending K.S.A. 72-3404, 75-4355a, 75-4355b, 75-5391, 75-5393, 75-5397a and 75-5399 and K.S.A. 2019 Supp. 8-1,125 and repealing the existing sections."; and the substitute bill be passed.

HB 2515, as amended by House Committee, be amended by substituting with a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2515," as follows:

"Senate Substitute for HOUSE BILL NO. 2515

By Committee on Education

"AN ACT concerning postsecondary education; relating to the state board of regents; creating the Kansas reinvest in postsecondary education act; regulating private and out-of-state postsecondary educational institutions; clarifying the authority of healing arts schools exempted from the private and out-of-state postsecondary educational institutions act to practice healing arts; amending K.S.A. 65-2877a, as amended by section 5 of chapter 52 of the 2019 Session Laws of Kansas, 74-32,162, 74-32,163, 74-32,164, 74-32,165, 74-32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,171, 74-32,172, 74-32,173, 74-32,175, 74-32,177, 74-32,178, 74-32,181, 74-32,182, 74-32,184, 74-32,194, 74-32,417 and 74-32,419 and K.S.A. 2019 Supp. 17-2707 and 17-7668 and repealing the existing sections."; and the substitute bill be passed.

HB 2540, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2540," as follows:

"Senate Substitute for HOUSE BILL NO. 2540

By Committee on Education

"AN ACT concerning school districts; relating to the Kansas school equity and enhancement act; requiring school districts to make certain transfers to at-risk education funds; authorizing certain expenditures from at-risk education funds; extending the high-density at-risk student weighting; providing requirements for identification of students eligible to receive at-risk programs and services; requiring a performance audit for at-risk education; amending K.S.A. 72-5151 and K.S.A. 2019 Supp. 72-5131, 72-5153 and 72-5173 and repealing the existing sections."; and the substitute bill be passed.

Committee on **Federal and State Affairs** recommends **HB 2646** be passed.

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

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

On motion of Senator Denning, the Senate adjourned until 9:00 a.m., Thursday, March 19, 2020.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

MARCH 18, 2020

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