

Journal of the House

FORTY-FOURTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, March 15, 2023, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Carpenter in the chair.

The roll was called with 125 members present.

Prayer by Chaplain Brubaker:

Gracious and Loving God,
to You we owe a great debt of gratitude
for all You have done for us and for who You are to us.
Today we may hear the quote,
“Beware of the Ides of March.”

When we think about the true meaning of an ide of the month,
we are reminded that it was a time in the Roman period
where debts were to be paid.

Many of us have many debts to be paid—
the debt of gratitude for those who have helped us in some way;
the debt of appreciation for all that has been given to us;
the debt of love that we owe those who have loved us;
the debt of serving those who have sent us to represent them.
Help us this day to be mindful of those to whom we are indebted
and to express our gratitude to them.

This I pray, Amen.

The Pledge of Allegiance was led by Rep. Robinson.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Reps. Clifford and Lewis and are spread upon the Journal:

Joining Representative Lewis and me today are the mentors and graduates of the Finney County Real Men Real Leaders Program. Their Mission Statement is:

CULTIVATING YOUNG MEN INTO LEADERS BY INFLUENCING POSITIVE DECISION MAKING.

Mentors include:

Former State Representative Reynaldo Mesa
Mr. Jonas Cruz
Mr. Tim Sperry

REAL MEN REAL LEADERS was founded in Garden City, Finney County Kansas in 2009 as an after-school program for 5th and 6th grade male students.

Through weekly programs, students are exposed to community leaders, role models, and educational and career opportunities. 5th graders complete lessons in 5 Core Values: LEADERSHIP, PERSONAL MANAGEMENT, FAMILY, COMMUNICATION AND CITIZENSHIP, The 6th grade students are challenged to complete lessons in four areas of community service: GOVERNMENT, PRIVATE, PUBLIC and SOCIAL SECTORS.

REAL MEN REAL LEADERS emphasizes SERVANT LEADERSHIP...to be a true leader you must first serve others. While learning servant leadership, students volunteer for over 1000 hours in our Community each year. After students complete their programs, their graduation is recognized at an annual banquet where they receive a challenge coin.

Graduates of the program joining us today include:

Josiah Dominquez, Ezequiel Espino, Andru Jimenez, Santiago Lopez, Aydan Lozano, J'Von McDowell, AJ Monzon, Josiah Murillo, Connor Music, Christian Olivera, Gabriel Ortega, Adriel Sanchez and Drake Schilling

The program is being expanded to upper grade levels to reinforce the program's values throughout their educational careers. This program is unique in Kansas, and should be expanded throughout the State. Please join us in recognizing REAL MEN REAL LEADERS.

Rep. Clifford presented a framed House certificate to his guests in recognition of their successes.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Butler are spread upon the Journal:

This morning, I have asked to recognize an individual who has worked hard to make Junction City/Geary County a great place to live and raise a family. I have asked the Representative from the 65th District, the Senator from Manhattan and many of Phyllis' supporters to join me in recognizing Phyllis Fitzgerald.

I have known Phyllis for several years and have observed how much she cares for Junction City. Phyllis retired from the United State Army after a long, distinguished career, that included deployment to Desert Shield/Desert Storm with the 1st Infantry Division. Since retirement, Phyllis has dedicated her time to working tirelessly to make Junction City a better place to live, work and play.

Keeping our city clean: Several years ago, Phyllis established weekly, monthly, and on request volunteer clean up events, with an overarching mission to connect Fort Riley soldiers and community members working together to clean up our community, making it more inviting and the best for first impressions.

Author: 2016, with time on her hands, Phyllis gathered information from 1st Infantry Division soldiers and wrote "What is Your Big Red One Story." This book told

the stories of 100 men and women who had served with units of the 1st Infantry Division. The endeavor was completed in time for the 100th birthday of the 1st Infantry Division.

Home Away From Home: Knowing soldiers want a place to connect, Phyllis established the local Adopt a Soldier program in 2017. To date she has matched over 200 Single Soldiers with over 75 + local host families.

Community Service: Phyllis refuses to let grass grow under her feet. In 2015 she was elected to serve on the Junction City Commission. She served from 2015-2020. In 2017 Phyllis was selected to serve as the Mayor for Junction City, Kansas.

Currently, Phyllis works as the Executive Director for the Society of the First Infantry Division. She actively engages leadership from both Junction City and Fort Riley, building relationships that will endure time.

Phyllis is a “Shining Star” in our community and is recognized by many as the unofficial Ambassador for Junction City, Kansas. Thank you from the residents of our community and from the House of Representatives. Would you join me in celebrating Phyllis’ hard work.

Rep. Butler presented Phyllis Fitzgerald with a framed House certificate in honor of her contributions to Junction City and Geary County.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

HB 2459, AN ACT concerning water; relating to the Kansas water appropriation act; providing a definition for safe yield; prohibiting the change of the point of diversion of a water right if such change causes the safe yield of the source of water supply to be exceeded; amending K.S.A. 82a-701 and K.S.A. 2022 Supp. 82a-708b and repealing the existing sections, by Committee on Appropriations.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Tarwater, **HR 6015**, by Reps. Rhiley, Tarwater, Bergquist, Buehler, Butler, Carlin, Carpenter, Clifford, Collins, Corbet, Curtis, Donohoe, Ellis, Essex, Estes, Garber, Hill, Hoheisel, Howell, Johnson, Lewis, Minnix, Moser, Murphy, Neelly, Penn, Pickert, Proctor, Resman, Roth, Sanders, Schlingensiepen, Smith, Smith, Thompson, Turk, Turner, Underhill, Waggoner, Wasinger, Williams, Williams and Younger, as follows, was introduced and adopted:

HOUSE RESOLUTION NO. **HR 6015**—A RESOLUTION commemorating the celebration of St. Patrick's Day.

WHEREAS, On March 17th, during the annual celebration of the Feast of Saint Patrick, the patron saint of Ireland, Irish Americans join with people of all other ethnic origins in celebrating Saint Patrick and demonstrating a mutual love for Ireland; and

WHEREAS, On Saint Patrick's Day, all who celebrate live in the spirit of Saint Patrick, Saint Bridget and Saint Colmcille, the latter of whose 1500th birthday was celebrated in 2020; and

WHEREAS, Irish immigrants in the United States helped form the cultural foundation of the nation, and those of Irish lineage today proudly sing support for Ireland; and

WHEREAS, We celebrate the establishment of the American Irish State Legislators

Caucus, which has leadership in all 50 states, and we applaud its aim of fostering and strengthening the longstanding relationship between the United States and Ireland for the mutual benefit of both countries; and

WHEREAS, The Senate of Ireland celebrates its 101st anniversary this year; and

WHEREAS, The songs of Ireland are the tragic songs of love, the joyous songs of battle, the nostalgic reveries of the sorrows and glories that are the Emerald Isle, the lamentations of life's myriad travails and the odes to joy in the life eternal: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we commemorate the celebration of the Feast of Saint Patrick, the patron saint of Ireland; and

Be it further resolved: That we honor the Good Friday Agreement, on the 25th anniversary of its ratification, as the framework for lasting peace in Northern Ireland; and

Be it further resolved: That the Chief Clerk of the House of Representatives shall send each an enrolled copy of this resolution to the Chair of the American Irish State Legislature Caucus, Senator Mark Daly, the 24th Chair of the Senate of Ireland, Representative Tarwater and 3 copies to Representative Rhiley.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Reps. Rhiley and Tarwater are spread upon the Journal:

Reps. Rhiley and Tarwater were joined on the floor by other sponsors of **HR 6015**. Rep. Rhiley read parts of the resolution and shared information about our relationship with Ireland.

Rep. Tarwater shared a story about his grandparents: For my Grandparents, Tom and Mary Shine, "Love at first sight" was a real thing. Tom met 16 year old Mary at a party, the first time she was allowed out for an evening. He courted for two years in rural County Kerry, Ireland.

He said that he "Danced her into loving him" and danced they did. They were always a hit at parties, and a dance always broke out.

Tom moved to America and worked for 2 years in order to save money to bring his sweetheart over. Work was hard and he was often met with a sign that read "Irish need not apply" and their accent made them hard to understand. They were married in St. Louis in 1928

They made it through the lean years because of their solid love for each other and compromise when difficult things came up.

Tom and Mary overcame these obstacles and Tom eventually became a vice president and a board member of Manor Baking Co. They had 8 children and their house was always full of love and laughter.

Tom was very proud of his Irish heritage. He was a founding member of the Ancient Order of Hibernians in Kansas City, and helped stage the first St. Patrick's Day parade there. One year he was the grand marshal. Growing up, we always had a float, and St. Patrick's Day was always my favorite holiday. The parade is now one of the largest parades in the country, and that is where you will find me this Friday.

Rep. Rhiley and Tarwater passed out pins that were sent from the Senate of Ireland.

CONSENT CALENDAR

No objection was made to **SB 24** appearing on the Consent Calendar for the first day.

No objection was made to **HB 2421** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

H Sub for SB 83, AN ACT concerning education; making and concerning appropriations for the fiscal year ending June 30, 2024, for the state department of education; establishing the sunflower education equity act; providing education savings accounts for students; establishing the sunflower education equity scholarship fund; requiring each school district to provide a salary increase to each licensed teacher in the school district in school year 2023-2024; defining enrollment of small school districts as the highest enrollment of the four preceding years under the Kansas school equity and enhancement act; amending K.S.A. 2022 Supp. 72-3120 and 72-5132 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 64; Nays 61; Present but not voting: 0; Absent or not voting: 0.

Yeas: Anderson, Awerkamp, Barth, Bergkamp, Bergquist, Blew, Blex, Bryce, Buehler, B. Carpenter, W. Carpenter, Collins, Corbet, Croft, Delperdang, Donohoe, Droge, Essex, Estes, Fairchild, Garber, Gardner, Goetz, Hawkins, Hill, Hoffman, Hoheisel, Houser, Howell, Howerton, Humphries, T. Johnson, Kessler, Landwehr, Lewis, Mason, Maughan, Murphy, Neelly, Owens, Penn, Pickert, Poetter Parshall, Proctor, Rhiley, Robinson, Roth, Sanders, Schmoie, Seiwert, Smith, C., Smith, E., Sutton, Tarwater, Thomas, Thompson, Titus, Turk, Turner, Underhill, Waggoner, Wasinger, White, Williams, K..

Nays: Alcalá, Amyx, Ballard, Bloom, Borjon, Boyd, Butler, Carlin, Carmichael, Carr, Clifford, Concannon, Curtis, Dodson, M., Ellis, Eplee, Featherston, Francis, Goddard, Haskins, Haswood, Helgerson, Highberger, Hougland, Howe, Hoye, Jacobs, Martinez, Melton, Meyer, Miller, D., Miller, S., Miller, V., Minnix, Moser, Neighbor, Ohaebosim, Oropeza, Osman, Ousley, F. Patton, Poskin, Probst, Rahjes, Resman, Ruiz, L., Ruiz, S., Sawyer, Sawyer Clayton, Schlingensiepen, Schreiber, Smith, A., Stogsdill, Vaughn, Waymaster, Weigel, Williams, L., Winn, Woodard, Xu, Younger.

Present but not voting: None.

Absent or not voting: None.

The substitute bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: House Substitute for SB 83 affords parents, whose financial situation hinders them, the freedom to choose a different education path for their children. The statistics clearly show that public schools are not working for many of our Kansas students. This bill seeks to give less affluent families, if they choose to do so, a chance to decide what is best for them. While this bill is not perfect, we should not let perfect be the enemy of good. This is a good bill. Mr. Speaker, I vote yes. – RANDY GARBER, BILL RHILEY, BRETT FAIRCHILD.

MR. SPEAKER: As a teacher I promised other teachers I would support fair raises for teachers and full funding of SPED. This bill fulfills both of these promises and benefits education. I vote yes on **Sub SB 83**. – TIM JOHNSON, CHUCK SMITH

MR. SPEAKER: We vote NO on **Senate Bill 83**. There simply is not enough accountability of taxpayer dollars for participating parents/guardians in this program. Furthermore, there are no metrics to evaluate student performance as this new method unfolds. Constituent feedback, in our districts was a sound rejection of this bill. Rather than a new voucher system, this body should double down on our efforts for Early Childhood Development and Education to effectively improve young Kansans' learning in reading, math, and the student as a whole. – JOHN EPLEE, JESSE BORJON, MIKE DODSON, JAMES MINNIX, SUSAN CONCANNON, MARK SCHREIBER, DAVID YOUNGER, LISA MOSER

MR. SPEAKER: I vote “NO” on **SB 83**. John Adams said, “Always stand on principle even if you stand alone.”

I do not trust a government that destroys an institution and creates havoc, then looks for more victims, under the guise of fixing the problem that they caused. In this bill government holds the purse strings not the parents. This bill does not fix our government schools. This bill is a governmental plan to further institute an educational welfare system. The solution to this problem is not more government, but individual morality, responsibility, and for parents to get involved in their childrens' education and demand accountability. – TREVOR JACOBS

MR. SPEAKER: I vote NO on **SB 83**. Those of us from rural areas know well the persistent resentment caused by school consolidation. A generation from now, when rural schools are again shuttered, Kansans will look back to this moment, and this bill, as the beginning of the end. Not just for rural schools, but rural Kansas. Our great state is littered with once-hopeful towns that lost their local schools and Suffered a slow death. **SB 83** will force school closures in rural Kansas, leading to further depopulation, and continued concentration of political and economic power in the urban areas of Kansas. – JASON PROBST

MR. SPEAKER: I vote NO on **SB 83**. It's exceedingly frustrating to have SPED funding and teacher pay raises tied to vouchers. That it's necessary at all tells us enough about this bill: It's unpopular and it's bad policy. (I support fully funded public schools for all Kansas kids, first and foremost, and vouchers are a direct attack on classroom funding. I side with the hundreds of Kansans, teachers, students, parents, and more who submitted opposition testimony to **SB 83** and I vote NO. – LYNN MELTON, VIRGIL WEIGEL, KIRK HASKINS, TOBIAS SCHLINGENSIEPEN, DAN OSMAN, MELISSA OROPEZA, SILAS MILLER, LINDA FEATHERSTON, LINDSAY VAUGHN

MR. SPEAKER: – I vote no on **SB 83**. My constituents elected me to defend public education, not defund it. A vote for this bill betrays our most fundamental institutions and undermines public education's role as ‘the great equalizer.’ A child's ZIP code, religion, sexual orientation, access to a vehicle, or requirement for special attention should not condemn them to a second-class education and less opportunity for Success. I refuse to pick winners and losers and that's what this bill will do. – SUSAN RUIZ, ALLISON HOUGLAND, HEATHER MEYER, FORD CARR, KC OHAEBOSIM

MR. SPEAKER: I vote NO on **SB 83**. Public dollars belong in public schools. Period. – VIC MILLER, DENNIS MILLER, JO ELLA HOYE, CHRISTINA HASWOOD, STEPHANIE SAWYER CLAYTON, JERRY STOGSDILL, BRAD BOYD, BRANDON WOODARD, ANGELA MARTINEZ, MIKE AMYX, SYDNEY CARLIN, JOHN ALCALA

MR. SPEAKER: I vote no on **SB 83**. I cannot authorize writing a blank check without any requirement for accountability or oversight, Particularly when the money comes straight from our classrooms. We've been unable to study an accurate fiscal note, and that alone is reason to vote no on this bill. I simply cannot think of a more irresponsible way to craft policy. I highly doubt that the members of this body would be so reckless with their own money, so why do it with taxpayers'? – CINDY NEIGHBOR, VALDENIA WINN, TOM SAWYER

MR. SPEAKER: We love our kids. We want the best for our kids. Wanting the best for our kids means rejecting status quo by allowing parental choice and healthy competition to improve outcomes and opportunities for all kids. With a growing number of students graduating without being career or college ready – it's past time for meaningful change. Helping disadvantaged kids performing below grade level, funding increases for special education, and requiring teacher pay raises work together to bring meaningful benefits and opportunities to our kids. My Speaker, I vote yes on **SB 83** — kids first always. KRISTEY WILLIAMS, BRENDA LANDWEHR

MR. SPEAKER: I vote Yes on **H Sub for SB 83**. Education Savings Accounts (ESA) are sensible and mainstream. Every state uses ESA's for 529 college savings plans. To extend this benefit to a larger pool of Kansas K-12 students and parents is a public good. Taxpayer money should follow the student and not be tied to any one system. Yet SB 83 is a compromise. We both fully fund public K-12 schools per the Gannon decision and provide meaningful school choice. Kansas needs to think "both/and" and not "either/or" when it comes to our schools. – PAUL WAGGONER, SCOTT HILL

On motion of Rep. Croft, the House resolved into the Committee of the Whole, with Rep. Anderson in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Anderson, Committee of the Whole report, as follows, was adopted:

Recommended that **HB 2422** be passed.

Committee report recommending a substitute bill to **H Sub for SB 229** be adopted; and the substitute bill be passed.

Committee report to **HB 2400** be adopted.

Also, on motion of Rep. Fairchild, **HB 2400** be amended As Amended by House Committee, on page 4, in line 16, by striking "years" and inserting "year"; also in line 16, by striking "2025" and inserting "and each fiscal year thereafter"; in line 18, by striking all after the period; by striking all in lines 19 through 21

Also, on motion of Rep. Tarwater, **HB 2400** be amended As Amended by House Committee, on page 5, in line 7, after the semicolon by inserting "and"; in line 8, after "(2)" by inserting "(A)"; also in line 8, by striking "and" and inserting a comma; in line 9, after "program" by inserting "and are currently employed in the state of Kansas;"; also in line 9, after "or" by inserting:

"(B) have"

Also on page 5, in line 10, by striking "; and"; by striking all in lines 11 through 13;

in line 14, by striking "servicemember"; in line 29, by striking "a student" and inserting "an individual"; in line 30, by striking all after "the" and the bill be passed as amended.

Committee report to **HB 2225** be adopted; and the bill be passed as amended.

On motion of Rep. Corbet to amend **HB 2331**, the motion did not prevail and **HB 2331** be passed.

REPORTS OF STANDING COMMITTEES

Committee on **Elections** recommends **HB 2391** be amended by adoption of the amendments recommended by the Committee on Elections as reported in the Journal of the House on February 22, 2023, and the bill, as printed As Amended by House Committee, be further amended by substituting with a new bill to be designated as "Substitute for HOUSE BILL NO. 2391," as follows:

"Substitute for HOUSE BILL NO. 2391

By Committee on Elections

"AN ACT concerning campaign finance; relating to the governmental ethics commission; establishing a five-year statute of limitations for complaints; modifying the commission's subpoena powers; allowing respondents to have a hearing transferred before a presiding officer under the Kansas administrative procedure act; amending K.S.A. 25-4119d, 25-4143, 25-4145, 25-4148, 25-4148c, 25-4152, 25-4153a, 25-4153b, 25-4154, 25-4157a, 25-4158, 25-4161, 25-4163, 25-4165, 25-4170, 25-4181, 25-4182 and 25-4185 and repealing the existing sections.";

And the substitute bill be passed.

(**Sub HB 2391** was thereupon introduced and read by title.)

Committee on **Elections** recommends **SB 209** be amended on page 1, in line 8, by striking "or" and inserting ", the satellite election office,"; also in line 8, after "place" by inserting "or a county-maintained election drop box"; and the bill be passed as amended.

Committee on **Elections** recommends **SB 221**, As Amended by Senate Committee, be amended on page 1, in line 26, by striking "2nd" and inserting "fourth"; in line 30, by striking "2nd" and inserting "fourth"; in line 34, by striking "second" and inserting "fourth";

On page 2, by striking all in line 4; in line 5, by striking "21 days prior to" and inserting "later than 12:00 noon on the fourth Monday preceding"; in line 10, by striking all after the first "not"; in line 11, by striking "prior to" and inserting "later than 12:00 noon on the fourth Monday preceding"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 243**, As Amended by Senate Committee, be amended on page 4, following line 31, by inserting:

"Sec. 3. K.S.A. 38-1708 is hereby amended to read as follows: 38-1708. (a) Subject to subsections (b) and (c), a person not subject to K.S.A. 38-1706 or 38-1707, and amendments thereto, who holds property of or owes a liquidated debt to a minor not having a conservator may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to K.S.A. 38-1710, and amendments thereto.

(b) If a person having the right to ~~do so~~ nominate a custodian under K.S.A. 38-

1704, and amendments thereto, has nominated a custodian under that section to receive the custodial property, the transfer must be made to that person.

(c) If no custodian has been nominated under K.S.A. 38-1704, and amendments thereto, or all persons so nominated as custodian die before the transfer or are unable, decline; or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds ~~\$10,000~~ \$25,000 in value.";

On page 5, following line 32, by inserting:

"Sec. 6. K.S.A. 2022 Supp. 59-3075 is hereby amended to read as follows: 59-3075. (a) (1) The individual or corporation appointed by the court to serve as the guardian shall carry out diligently and in good faith, the general duties and responsibilities, and shall have the general powers and authorities, provided for in this section as well as any specific duties, responsibilities, powers and authorities assigned to the guardian by the court. In doing so, a guardian shall at all times be subject to the control and direction of the court, and shall act in accordance with the provisions of any guardianship plan filed with the court pursuant to K.S.A. 59-3076, and amendments thereto. The court shall have the authority to appoint counsel for the guardian, and the fees of such attorney may be assessed as costs pursuant to K.S.A. 59-3094, and amendments thereto.

(2) A guardian shall become and remain personally acquainted with the ward, the spouse of the ward and with other interested persons associated with the ward and who are knowledgeable about the ward, the ward's needs and the ward's responsibilities. A guardian shall exercise authority only as necessitated by the ward's limitations. A guardian shall encourage the ward to participate in making decisions affecting the ward. A guardian shall encourage the ward to act on the ward's own behalf to the extent the ward is able. A guardian shall encourage the ward to develop or regain the skills and abilities necessary to meet the ward's own essential needs and to otherwise manage the ward's own affairs. In making decisions on behalf of the ward, a guardian shall consider the expressed desires and personal values of the ward to the extent known to the guardian. A guardian shall strive to assure that the personal, civil and human rights of the ward are protected. A guardian shall at all times act in the best interests of the ward and shall exercise reasonable care, diligence and prudence.

(b) A guardian shall have the following general duties, responsibilities, powers and authorities:

(1) If the ward is a minor, to have the custody and control of the minor; and to provide for the minor's care, treatment, habilitation, education, support and maintenance;

(2) if the ward is an adult, to take charge of the person of the ward; and to provide for the ward's care, treatment, habilitation, education, support and maintenance;

(3) to consider and either provide on behalf of the ward necessary or required consents or refuse the same;

(4) to assure that the ward resides in the least restrictive setting appropriate to the needs of the ward and which is reasonably available;

(5) to assure that the ward receives any necessary and reasonably available medical care, consistent with the provisions of K.S.A. 59-3077, and amendments thereto, when applicable, and any reasonably available nonmedical care or other services as may be needed to preserve the health of the ward or to assist the ward to develop or retain skills

and abilities;

(6) to promote and protect the comfort, safety, health and welfare of the ward;

(7) to make necessary determinations and arrangements for, and to give the necessary consents in regard to, the ward's funeral arrangements, burial or cremation, the performance of an autopsy upon the body of the ward, and anatomical gifts of the ward, subject to the provisions and limitations provided for in K.S.A. 65-3228, K.S.A. 65-2893 and 65-1734, and amendments thereto; and

(8) to exercise all powers and to discharge all duties necessary or proper to implement the provisions of this section.

(c) A guardian shall not be obligated by virtue of the guardian's appointment to use the guardian's own financial resources for the support of the ward.

(d) A guardian shall not be liable to a third person for the acts of the ward solely by virtue of the guardian's appointment, nor shall a guardian who exercises reasonable care in selecting a third person to provide any medical or other care, treatment or service for the ward be liable for any injury to the ward resulting from the wrongful conduct of that third person.

(e) A guardian shall not have the power:

(1) To prohibit the marriage or divorce of the ward;

(2) to consent, on behalf of the ward, to the termination of the ward's parental rights;

(3) to consent to the adoption of the ward, unless approved by the court;

(4) to consent, on behalf of the ward, to any psychosurgery, removal of any bodily organ; or amputation of any limb, unless such surgery, removal or amputation has been approved in advance by the court, except in an emergency and when necessary to preserve the life of the ward or to prevent serious and irreparable impairment to the physical health of the ward;

(5) to consent, on behalf of the ward, to the sterilization of the ward, unless approved by the court following a due process hearing held for the purposes of determining whether to approve such, and during which hearing the ward is represented by an attorney appointed by the court;

(6) to consent, on behalf of the ward, to the performance of any experimental biomedical or behavioral procedure on the ward, or for the ward to be a participant in any biomedical or behavioral experiment, without the prior review and approval of such by either an institutional review board as provided for in title 45, part 46 of the code of federal regulations, or if such regulations do not apply, then by a review committee established by the agency, institution or treatment facility at which the procedure or experiment is proposed to occur, composed of members selected for the purposes of determining whether the proposed procedure or experiment:

(A) Does not involve any significant risk of harm to the physical or mental health of the ward, or the use of aversive stimulants, and is intended to preserve the life or health of the ward or to assist the ward to develop or regain skills or abilities; or

(B) involves a significant risk of harm to the physical or mental health of the ward, or the use of an aversive stimulant, but that the conducting of the proposed procedure or experiment is intended either to preserve the life of the ward, or to significantly improve the quality of life of the ward, or to assist the ward to develop or regain significant skills or abilities, and that the guardian has been fully informed concerning the potential risks and benefits of the proposed procedure or experiment or of any aversive stimulant

proposed to be used, and as to how and under what circumstances the aversive stimulant may be used, and has specifically consented to such;

(7) to consent, on behalf of the ward, to the withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures, except:

(A) In accordance with the provisions of any declaration of the ward made pursuant to the provisions of K.S.A. 65-28,101 through 65-28,109, and amendments thereto; or

(B) if the ward, prior to the court's appointment of a guardian pursuant to K.S.A. 59-3067, and amendments thereto, shall have executed a durable power of attorney for health care decisions pursuant to K.S.A. 58-629, and amendments thereto, and such shall not have been revoked by the ward prior thereto, and there is included ~~therein in~~ such power of attorney any provision relevant to the withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures, then the guardian shall have the authority to act as provided for ~~therein in such power of attorney~~, even if the guardian has revoked or otherwise amended that power of attorney pursuant to the authority of K.S.A. 58-627, and amendments thereto, or the guardian may allow the agent appointed by the ward to act on the ward's behalf if the guardian has not revoked or otherwise amended that power of attorney; or

(C) in the circumstances where the ward's treating physician shall certify in writing to the guardian that the ward is in a persistent vegetative state or is suffering from an illness or other medical condition for which further treatment, other than for the relief of pain, would not likely prolong the life of the ward other than by artificial means, nor would be likely to restore to the ward any significant degree of capabilities beyond those the ward currently possesses, and which opinion is concurred in by either a second physician or by any medical ethics or similar committee to which the health care provider has access established for the purposes of reviewing such circumstances and the appropriateness of any type of physician's order which would have the effect of withholding or withdrawing life-saving or life-sustaining medical care, treatment, services or procedures. Such written certification shall be approved by an order issued by the court;

(8) to exercise any control or authority over the ward's estate, except if the court shall specifically authorize such. The court may assign such authority to the guardian, including the authority to establish certain trusts as provided in K.S.A. 59-3080, and amendments thereto, and may waive the requirement of the posting of a bond, only if:

(A) Initially, the combined value of any funds and property in the possession of the ward or in the possession of any other person or entity, but which the ward is otherwise entitled to possess, equals ~~\$10,000~~ \$25,000 or less; and

(B) either the court requires the guardian to report to the court the commencement of the exercising of such authority, or requires the guardian to specifically request of the court the authority to commence the exercise of such authority, as the court shall specify; and

(C) the court also requires the guardian, whenever the combined value of such funds and property exceeds ~~\$10,000~~ \$25,000, to:

(i) File a guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, which contains elements similar to those which would be contained in a conservatorship plan as provided for in K.S.A. 59-3078, and amendments thereto;

(ii) petition the court for appointment of a conservator as provided for in K.S.A. 59-3058, 59-3059 or 59-3060, and amendments thereto; or

(iii) notify the court as the court shall specify that the value of the conservatee's estate has equaled or exceeded ~~\$10,000~~ \$25,000, if the court has earlier appointed a conservator but did not issue letters of conservatorship pending such notification;

(9) to place the ward in a treatment facility as defined in K.S.A. 59-3077, and amendments thereto, except if authorized by the court as provided for ~~therein in that section~~; or

(10) to access digital assets of the ward except if authorized by the court pursuant to K.S.A. 2022 Supp. 58-4814, and amendments thereto.

(f) The guardian shall file with the court reports concerning the status of the ward and the actions of the guardian as the court shall direct pursuant to K.S.A. 59-3083, and amendments thereto.

Sec. 7. K.S.A. 74-49,127 is hereby amended to read as follows: 74-49,127. (1) Any payment made to a named beneficiary as provided in this section, shall be a full discharge and release to the system from any further claims. Any payment made to a beneficiary as provided in ~~clauses (A), (B), (C), (D), (E) or (F) of subsection (7) of K.S.A. 74-4902(7)(A), (B), (C), (D), (E) or (F) or in clauses (1), (2), (3), (4), (5) or (6) of subsection (k) of K.S.A. 20-2601(k)(1), (2), (3), (4), (5) or (6)~~, and amendments thereto, as determined by the board, shall be a full discharge and release to the system from any further claims. Whenever any payment is payable to more than one beneficiary, such payment shall be made to such beneficiaries jointly.

(2) Any benefits payable to a beneficiary or beneficiaries who are incompetent shall be made in the name of the beneficiary or beneficiaries and delivered to the lawfully appointed conservator of such beneficiaries who was nominated by will or as otherwise provided by law, except that in those cases where the benefit involves an amount not to exceed \$500, the board is hereby authorized in its discretion without the appointment of a conservator or in the giving of a bond to pay such amount as is due to the incompetent person or persons themselves.

(3) Any lump-sum benefits payable to a beneficiary or beneficiaries who are minor children and which amount totals ~~\$10,000~~ \$25,000 or more shall be made in the name of the beneficiary or beneficiaries and delivered to the lawfully appointed conservator of such beneficiaries who was nominated by will or as otherwise provided by law except that in those cases where the benefit involves an amount not to exceed \$500, the board is hereby authorized in its discretion without the appointment of a conservator or the giving of a bond to pay such amount as is due to the minor or minors themselves. If no conservator is lawfully appointed, the system will credit interest at 4% on all benefits due and payable and shall pay all benefits plus interest to the beneficiary or beneficiaries who are minor children when they attain age 18 years. Any benefits payable to a beneficiary or beneficiaries who are minor children and which amount which totals more than \$500 but less than ~~\$10,000~~ \$25,000, may be made in the name of the beneficiary or beneficiaries and paid under the uniform transfers to minors act as provided in K.S.A. 38-1701 et seq., and amendments thereto.

(4) Any monthly benefits payable to a beneficiary or beneficiaries who are minor children shall be made in the name of the beneficiary or beneficiaries and delivered to the lawfully appointed conservator of such beneficiaries who was nominated by will or as otherwise provided by law. If no conservator is lawfully appointed, the system will credit interest at 4% on all benefits due and payable and shall pay all benefits plus interest to the beneficiary or beneficiaries who are minor children when they attain age

18 years.

(5) As used in this section, "system" means the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges.";

Also on page 5, in line 33, after the comma by inserting "38-1708,"; also in line 33, by striking "and" and inserting a comma; also in line 33, after "59-3055" by inserting "and 74-49,127 and K.S.A. 2022 Supp. 59-3075";

And by renumbering sections accordingly;

On page 1, in the title, in line 6, after the second comma by inserting "38-1708,"; also in line 6, by striking "and" and inserting a comma; also in line 6, after "59-3055" by inserting "and 74-49,127 and K.S.A. 2022 Supp. 59-3075"; and the bill be passed as amended.

Committee on **K-12 Education Budget** recommends **SB 113** be amended by substituting with a new bill to be designated as "House Substitute for SENATE BILL NO. 113," as follows:

"House Substitute for SENATE BILL NO. 113

By Committee on K-12 Education Budget

"AN ACT concerning education; making and concerning appropriations for the fiscal years ending June 30, 2023, June 30, 2024, and June 30, 2025, for the state department of education; establishing the mental health intervention team program in state statute; providing incentives for coordination between school districts and community mental health centers; creating the mental health intervention team program fund in each school district; authorizing certain students to participate in activities that are regulated by the Kansas state high school activities association; authorizing certain nonpublic school students who enroll part-time in a school district to participate in nonpublic school activities; requiring each school district to post certain enrollment and academic information on the school district's website; authorizing any student with a parent or guardian employed by a school district to enroll in and attend such school district without entering the school district's open-seat lottery process; requiring consideration of homelessness when determining enrollment status of a student under school district open-enrollment procedures; authorizing members of school district boards of education to receive compensation from the school district for work and duties performed; authorizing the use of current-year student enrollment to determine state foundation aid under the Kansas school equity and enhancement act; continuing the 20 mill statewide levy for schools; increasing the number of school districts that qualify to finance a cost-of-living weighting and increasing the maximum amount of such weighting; amending K.S.A. 72-1137, 72-3123, as amended by section 16 of chapter 94 of the 2022 Session Laws of Kansas, and 72-5159 and K.S.A. 2022 Supp. 72-3126, 72-5132, 72-5142 and 72-5462 and repealing the existing sections.";

And the substitute bill be passed.

(**H Sub for SB 113** was thereupon introduced and read by title.)

Committee on **Taxation** recommends **HB 2254** be amended on page 3, in line 37, after the semicolon by inserting "and"; in line 38, after "(iii)" by inserting "for all taxable years commencing after December 31, 2022, that is"; in line 39, by striking all after "products"; in line 40, by striking "(iv)";

On page 4, in line 2, after "items" by inserting ", products, services or merchandise associated with the registered agritourism activity"; in line 3, after the first comma by inserting "point of"; also in line 3, by striking "made"; in line 4, after the second "the" by inserting "agricultural"; also in line 4, after "land" by inserting "or buildings"; and the bill be passed as amended.

On motion of Rep. Croft, the House adjourned until 11:00 a.m., Thursday, March 16, 2023.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

