

Journal of the Senate

FORTY-FOURTH DAY *CORRECTED*

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 15, 2023, 2:30 p.m.

The Senate was called to order by Vice President Rick Wilborn.
The roll was called with 37 senators present.
Senators Claeys, Kerschen and McGinn were excused.
Invocation by David DePue.

Almighty God, we gather here today to do Your business as we serve the people of Kansas. We ask You to bless our processes and our outcomes. Please give us a boost of wisdom and discernment as we work through the calendar of bills today. I pray this in the Name of Jesus. Amen

The Pledge of Allegiance was led by Vice President Wilborn.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 313, AN ACT concerning income taxation; relating to the salt parity act; clarifying the determination of taxable income of an electing pass-through entity; providing for the passing through of tax credits to electing pass-through entity owners; amending K.S.A. 2022 Supp. 79-32,287 and repealing the existing section, by Committee on Assessment and Taxation.

SB 314, AN ACT concerning public health; relating to immunizations; prohibiting the secretary of health and environment from requiring a COVID-19 vaccination to attend at a child care facility or school; amending K.S.A. 65-508 and 72-6262 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 315, AN ACT concerning public health; relating to vaccinations; requirements to attend child care facilities and elementary, secondary and public or private postsecondary educational institutions; prohibiting an inquiry into the sincerity of a request for an exemption from vaccine requirements; repealing the meningitis vaccine requirement to live in student housing; amending K.S.A. 65-508 and 72-6262 and K.S.A. 2022 Supp. 44-663 and repealing the existing sections; also repealing K.S.A. 76-761a, by Committee on Federal and State Affairs.

SCR 1610—A PROPOSITION to amend section 1 of article 11 of the constitution of the state of Kansas; relating to property taxation; limiting valuation increases for real property.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the

members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 1 of article 11 of the constitution of the state of Kansas is hereby amended to read as follows:

"§ 1. System of taxation; classification; exemption. (a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, ~~2013~~ 2025, and each year thereafter. Except as otherwise hereinafter specifically provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles and watercraft, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain.

The valuation of any real property shall not increase by more than 3% in any taxable year except when:

(1) The property includes new construction or improvements have been made to the property;

(2) the class or subclass of the property changes for assessment rate purposes;

(3) the property becomes disqualified from exemption;

(4) the property is first listed as escaped or omitted property; or

(5) the legal description of the land, lot or parcel changes, except that the total valuation of all property affected by a legal description change shall not exceed the total valuation of the affected property for the previous year by more than 3%.

The legislature may define new construction or improvements by law and enact such other legislation as is necessary to administer this provision.

Property shall be classified into the following classes for the purpose of assessment and assessed at the percentage of value prescribed therefor:

Class 1 shall consist of real property. Real property shall be further classified into seven subclasses. Such property shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

(1) Real property used for residential purposes including multi-family residential real property and real property necessary to accommodate a residential community of mobile or manufactured homes including the real property upon which such homes are

located 11½%

(2) Land devoted to agricultural use which shall be valued upon the basis of its agricultural income or agricultural productivity pursuant to section 12 of article 11 of the constitution.....30%

(3) Vacant lots12%

(4) Real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code, and which is included in this subclass by law.....12%

(5) Public utility real property, except railroad real property which shall be assessed at the average rate that all other commercial and industrial property is assessed.....33%

(6) Real property used for commercial and industrial purposes and buildings and other improvements located upon land devoted to agricultural use.....25%

(7) All other urban and rural real property not otherwise specifically subclassified30%

Class 2 shall consist of tangible personal property. Such tangible personal property shall be further classified into six subclasses, shall be defined by law for the purpose of subclassification and assessed uniformly as to subclass at the following percentages of value:

(1) Mobile homes used for residential purposes...11½%

(2) Mineral leasehold interests except oil leasehold interests the average daily production from which is five barrels or less, and natural gas leasehold interests the average daily production from which is 100 mcf or less, which shall be assessed at 25%30%

(3) Public utility tangible personal property including inventories thereof, except railroad personal property including inventories thereof, which shall be assessed at the average rate all other commercial and industrial property is assessed.....33%

(4) All categories of motor vehicles not defined and specifically valued and taxed pursuant to law enacted prior to January 1, 198530%

(5) Commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property, notwithstanding its economic life and as long as such property is being used, shall not be less than 20% of the retail cost when new of such property25%

(6) All other tangible personal property not otherwise specifically classified.....30%

(b) All property used exclusively for state, county, municipal,

literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. This amendment would limit annual valuation increases to 3% for real property for purposes of property taxation except when the property includes new construction or improvements have been made to the property, the class or subclass of the property changes, the property becomes disqualified from exemption, the property is first listed as escaped or omitted property or the legal description of the property changes.

"A vote for this proposition would limit annual valuation increases to 3% for real property except when the property includes new construction or improvements have been made to the property, the class or subclass of the property changes, the property becomes disqualified from exemption, the property is first listed as escaped or omitted property or the legal description of the property changes. The amendment would also authorize the legislature to define new construction or improvements and to enact such other legislation as is necessary to administer the provision.

"A vote against this proposition would provide no change to the Kansas constitution."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives, shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2024, unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 311.**

Local Government: **SB 312.**

COMMUNICATIONS FROM STATE OFFICERS

The following report was submitted to the Senate and is on file with the Secretary of the Senate:

State Fire Marshal Annual Report (March 14, 2023)

MESSAGE FROM THE HOUSE

Announcing passage of **SB 83**, as amended by **H Sub SB 83**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Doll introduced the following Senate resolution, which was read:
SENATE RESOLUTION No. 1715—

A RESOLUTION honoring Real Men Real Leaders
for their outstanding service to the Garden City, Kansas community.

WHEREAS, Real Men Real Leaders (RMRLs), founded in 2009, is a program for 5th and 6th grade male students in the school district of Garden City, Kansas; and

WHEREAS, RMRLs after-school program began in 2012 and has served over 250 students; and

WHEREAS, Through weekly after-school leadership teaching sessions, RMRLs students are introduced to educational and career opportunities, community leaders and role models; and

WHEREAS, RMRLs provides a summer program for students to raise awareness of the dangers of alcohol, vaping and tobacco; and

WHEREAS, The 5th grade students are challenged to complete lessons related to the five core values of RMRLs: Leadership, Personal Management, Family, Communication and Citizenship; and

WHEREAS, The 6th grade students are challenged to complete lesson plans related to the government, private, public and social sectors; and

WHEREAS, After the students complete their respective programs, they graduate from the RMRLs program and are awarded challenge coins at the RMRLs annual banquet; and

WHEREAS, RMRLs students have volunteered over 1,000 hours; and

WHEREAS, RMRLs is the only leadership program of its kind in Kansas:
Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Real Men Real Leaders for their outstanding service to the Garden City, Kansas community; and

Be it further resolved: That we send our best wishes to Real Men Real Leaders as the organization looks to expand to communities throughout the State of Kansas; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Doll.

On emergency motion of Senator Doll **SR 1715** was adopted by voice vote.

On motion of Senator Alley the Senate recessed to the sound of the gavel.

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

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 Dietrich in the chair.

On motion of Senator Dietrich the following report was adopted:

SB 127 be passed.

HB 2014 be amended by the adoption of the committee amendments, and the bill be passed as amended.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Alley an emergency was declared by a 2/3 constitutional majority, and **SB 127**; **HB 2014** were advanced to Final Action and roll call.

SB 127, AN ACT concerning sales and compensating use tax; relating to city and countywide retailers' sales tax; providing countywide retailers' sales tax authority for Dickinson county; amending K.S.A. 12-187, 12-189 and 12-192 and repealing the existing sections.

On roll call, the vote was: Yeas 35; Nays 1; Present and Passing 0; Absent or Not Voting 4.

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

Nays: Olson.

Absent or Not Voting: Billinger, Claeys, Kerschen, McGinn.

The bill passed.

HB 2014, AN ACT concerning roads and highways; designating a portion of United States highway 69 in Crawford county as the Robert Lessen memorial highway.

On roll call, the vote was: Yeas 36; Nays 0; Present and Passing 0; Absent or Not Voting 4.

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

Absent or Not Voting: Billinger, Claeys, Kerschen, McGinn.

The bill passed, as amended.

EXPLANATION OF VOTE

I vote "YES" on **HB 2014**. Robert Lessen was a pillar of the community of Arma. A graduate of Arma High School and Pittsburg State University, Mr. Lessen represents the values of work and dedication to his family and community. He was a veteran of WWII and the Korean War. He owned Fox Insurance. Robert was a member of the Arma United Methodist Church,

Masonic Lodge #408, Eagles Lodge, past commander of the Lon Helm Post #182 American Legion, board member of Elm Acres youth home, Arma city councilman and Mayor. I am proud to be able to support the effort to name a small portion of US 69 Highway as the Robert Lessen Memorial Highway. It is fitting that we do this.—TIM SHALLENBURGER

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **HB 2375** be amended on page 7, in line 5, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 291** be amended on page 1, in line 20, by striking "5" and inserting "7";

On page 2, in line 25, after "fiduciary" by inserting ", specifically on assets managed on behalf of the system"; in line 43, after "requires" by inserting ", specifically on assets managed on behalf of the system";

On page 4, in line 13, after "factors" by inserting ", in which case the system may grant proxy voting authority to such person"; in line 19, after "system" by inserting ", in which case the system may engage a proxy voting advisor"; in line 26, after "system" by inserting ", in which case the system may entrust engagement and share voting to a fiduciary"; in line 32, after "factors" by inserting ", in which case the investment manager or contractor may follow the recommendations of a proxy or other service advisor"; in line 34, by striking "legislative coordinating council" and inserting "joint committee on pensions, investments and benefits"; following line 38, by inserting:

"(j) Subsections (e) through (i) shall apply only to assets managed on behalf of the system and shall not apply to alternative or real estate investments as defined in K.S.A. 74-4921(5), and amendments thereto.;"

On page 5, in line 7, after "thereto," by inserting "prior to investing any moneys owned by a client,"; also in line 7, by striking all after "shall"; by striking all in lines 8 through 26; in line 27, by striking all before the period and inserting "obtain written consent from such client stating that the client is fully aware of and consents to the investment of moneys owned by the client or through any mutual fund, actively or passively managed equity fund, company or financial institution that is using environmental, social and governance criteria. Such written consent need only be obtained a single time from the client. Such written consent shall consist of the following disclosure:

"The institution managing this fund is using environmental, social and governance (ESG) criteria. If such ESG criteria is used in managing your fund, these ESG criteria may impact the fund's returns compared to the fund's historical performance or the performance of funds that do not use ESG criteria. You may have the option to choose a similar fund that does not use ESG criteria. By signing below, you consent to have your investment managed by this institution even if the institution uses ESG criteria that may impact your returns compared to historical performance or other funds."

(b) Conduct prohibited by this section shall be considered an act, practice or course of business that operates or would operate as a fraud or deceit in accordance with K.S.A. 17-12a502, and amendments thereto.

(c) Nothing in this section shall be construed to establish any requirements for registration, capital, custody, margin, financial responsibility, making and keeping of records, bonding or financial or operational reporting for a registered investment adviser that differ from the requirements established under federal law to the extent that such requirements are applicable to the registered investment adviser. The requirements of this section shall not apply to annuities managed by an insurance company.

(d) The provisions of this section, or any contract or practice subject to this section, may be enforced by the attorney general. The attorney general may investigate possible violations of this section in accordance with the provisions of K.S.A. 50-631, and amendments thereto";

Also on page 5, following line 43, by inserting:

"New Sec. 7. In a cause of action based on an action, inaction, decision, divestment, investment, report or other determination made or taken in compliance with this act, without regard to whether the person performed services for compensation, the state shall indemnify and hold harmless for actual damages, court costs and attorney fees adjudged against, and defend the system and any of its current and former employees, members of the board or any other officers of the system related to the act or omission on which the damages are based.";

And by renumbering sections accordingly;

On page 1, in the title, in line 12, by striking all after "to"; by striking lines 13 and 14; in line 15, by striking all before the semicolon and inserting "obtain written consent from clients prior to investing client moneys in investments using environmental, social and governance criteria"; in line 16, after the semicolon by inserting "indemnifying the Kansas public employees retirement system with respect to actions taken in compliance with such act"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2198** be passed.

Also, **HB 2089** be amended on page 1, in line 35, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2090 be amended on page 5, in line 41, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2093 be amended on page 2, in line 15, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2094 be amended on page 3, in line 43, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2096 be amended on page 2, in line 3, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2097 be amended on page 1, in line 35, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2098 be amended on page 2, in line 31, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2100 be amended on page 2, in line 31, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2196 be amended on page 2, in line 20, by striking "statute book" and

inserting "Kansas register"; and the bill be passed as amended.

HB 2284 be amended on page 1, in line 33, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2285 be amended on page 9, in line 13, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2034**, As Amended by House Committee of the Whole, be amended on page 2, in line 21, by striking all after "rate"; in line 22, by striking all before the first "for" and inserting "not to exceed \$750"; following line 24, by inserting:

"(4) If a provider is found to have submitted fraudulent charges, such provider shall be banned from the CARE network and the secretary of health and environment shall report such incident to the provider's licensing board. Such licensing board shall investigate such report to determine whether unprofessional conduct has occurred."; and the bill be passed as amended.

Your Committee on **Transparency and Ethics** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Executive Director, Kansas State Historical Society: K.S.A. 75-2701

Patrick Zollner, to serve at the pleasure of the Governor

Transportation recommends **SB 271** be amended on page 1, in line 31, after the period by inserting "The provisions of this section shall expire and have no effect on and after July 1, 2027."; in line 34, after "sidings" by inserting "if such railroad crossing does not have electronic warning signals";

On page 2, in line 4, by striking all after "officer"; in line 5, by striking all before "may"; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2226** be passed.

CONSIDERATIONS OF MOTIONS TO CONCUR OR NONCONCUR

Senator Sykes moved the Senate nonconcur in House amendments to **H Sub SB 83**.

Senator Masterson offered a substitute motion to nonconcur and that a conference committee be appointed on **H Sub SB 83**.

On motion of Senator Pyle, the Senate adjourned until 2:30 p.m., Thursday, March 16, 2023.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

□