

# Journal of the Senate

THIRTEENTH DAY

---

SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, January 27, 2022, 2:30 p.m.

The Senate was called to order by President Ty Masterson.

The roll was called with 39 senators present.

Senator Suellentrop was excused.

President Masterson introduced Doug Henkle to deliver the invocation:

Heavenly Father, it is such a blessing to know You love us and care about every detail of our lives. You even know the number of hairs on our head! You care about each word spoken here and You know the motivation behind each word. You care about the debate that will occur on the floor of this chamber today. I pray You would cause a bond of common purpose to unite this body and that Your peace would be over the Kansas Senate.

I ask that You give each Senator wisdom and I pray for friendly relations as passionately held positions are argued. Cause each member of this body to think before they speak, aware that their words will not be overlooked or easily erased. Keep them from quarrels and angry disputes. Rather, cause each Senator to argue strongly held, differing positions in a diplomatic and honorable way to the best of their ability, striving for satisfactory resolution, blessing all Kansans.

I lift up President Masterson, Vice President Wilborn, Majority Leader Alley and Minority Leader Sykes to You. Give them Your divine insight and direction and they lead this chamber.

Father, I pray that at the end of the day the deliberations in the Kansas Senate would lead to sound decisions that would honor You. In Jesus' Name, Amen.

The Pledge of Allegiance was led by President Masterson.

## CELEBRATING KANSAS DAY

Senators, led by Senator Gossage and Senator Pittman, sang *Home on the Range*, the State Song, in advance of Kansas Day 2022 on January 29.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 398**, AN ACT concerning public health; relating to vaccinations; children and minors; requiring a child care facility or school to grant religious exemptions from vaccination requirements without inquiring into the sincerity of the religious beliefs; amending K.S.A. 65-508 and 72-6262 and repealing the existing sections, by Committee on Public Health and Welfare.

**SB 399**, AN ACT concerning insurance; relating to the healthcare insurance provider availability act; adding maternity center to the definition of healthcare provider contained therein; amending K.S.A. 40-3401 and repealing the existing section, by Committee on Financial Institutions and Insurance.

**SB 400**, AN ACT concerning trusts; relating to the creation, modification and termination thereof; creating an opt-out provision for the rule against perpetuities; providing for a process by which a new trust can be created by moving all of the contents of one trust into a new trust; adding to the list of matters that may be resolved by nonjudicial settlement agreements; increasing the threshold at which an uneconomic trust may be terminated; updating the definition of resident trust; amending K.S.A. 58a-414 and 79-32,109 and K.S.A. 2021 Supp. 58a-111 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

**SB 401**, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; providing for an annual cost-of-living adjustment for retirants upon the occurrence of certain annual investment returns and consumer price index increases as certified by the board or executive director as designated by the board, by Committee on Financial Institutions and Insurance.

**SB 402**, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; providing a cost-of-living adjustment for certain retirants, by Committee on Financial Institutions and Insurance.

**SB 403**, AN ACT concerning sales and compensating use tax; relating to city and countywide retailers' sales tax; Wilson county, election and rates; amending K.S.A. 2021 Supp. 12-187, 12-189 and 12-192 and repealing the existing sections, by Committee on Assessment and Taxation.

**SB 404**, AN ACT concerning gaming; authorizing a vote to permit electronic gaming machines at a racetrack gaming facility in Sedgwick county; authorizing parimutuel licensees to operate historical horse race machines; establishing the Kansas horse council fund, privilege fee repayment fund, racetrack gaming facility management repayment fund and facility manager licensee repayment fund; amending K.S.A. 74-8702, 74-8734, 74-8741, 74-8743, 74-8746, 74-8747, 74-8802, 74-8804, 74-8814, 74-8823 and 74-8836 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 405**, AN ACT concerning the disposition of certain state real property; authorizing the state historical society to convey certain real property located in Johnson county to the Shawnee Tribe; imposing certain conditions; prescribing costs of conveyance, by Committee on Federal and State Affairs.

**SB 406**, AN ACT concerning firearms; creating the back the blue act; authorizing the issuance of protective orders to prohibit the acquisition and possession of firearms to reduce law enforcement officer deaths; civil and criminal penalties for violations of such orders, by Committee on Federal and State Affairs.

**SB 407**, AN ACT concerning the state children's health insurance program; relating to eligibility; updating income requirements therefor; eliminating waiting period for certain persons to receive coverage; amending K.S.A. 38-2001 and repealing the existing section, by Committee on Ways and Means.

**SB 408**, AN ACT concerning crimes, punishment and criminal procedure; relating to theft; increasing criminal penalties for multiple thefts of mail; amending K.S.A. 2021 Supp. 21-5801 and repealing the existing section, by Committee on Judiciary.

**SB 409**, AN ACT concerning freedom of worship; prohibiting certain restrictions on such freedom by governmental entities and public officials; limiting related state of disaster emergency powers of the governor and state of local disaster emergency powers of counties and cities; related powers of the secretary of health and environment and local health officers; amending K.S.A. 2021 Supp. 48-925, 48-932, 65-101, 65-201 and 65-202 and repealing the existing sections, by Committee on Judiciary.

**SB 410**, AN ACT concerning the legislative branch; requiring the state capitol and legislative meetings to be open to the public, by Committee on Judiciary.

**SB 411**, AN ACT concerning commerce; prohibiting certain restrictions on the operation of private businesses by governmental entities and public officials; limiting related state of disaster emergency powers of the governor and state of local disaster emergency powers of counties and cities; related powers of the secretary of health and environment and local health officers; amending K.S.A. 2021 Supp. 48-925, 48-932, 65-101, 65-201 and 65-202 and repealing the existing sections, by Committee on Judiciary.

**SB 412**, AN ACT concerning crimes, punishment and criminal procedure; relating to violation of a protective order; increasing criminal penalties therefor; amending K.S.A. 2021 Supp. 21-5924 and repealing the existing section, by Committee on Judiciary.

**SB 413**, AN ACT concerning crimes, punishment and criminal procedure; relating to domestic battery; authorizing staggered sentencing therefor; amending K.S.A. 2021 Supp. 21-5414 and repealing the existing section, by Committee on Judiciary.

**SB 414**, AN ACT concerning crimes, punishment and criminal procedure; relating to driving under the influence; authorizing staggered sentencing therefor; amending K.S.A. 2021 Supp. 8-1567 and repealing the existing section, by Committee on Judiciary.

**SB 415**, AN ACT concerning domestic violence; defining primary aggressor in the Kansas criminal code, the Kansas code of criminal procedure and the protection from abuse act; law enforcement policies regarding domestic violence calls; directing that arrest is the preferred response only with respect to the primary aggressor; amending K.S.A. 2021 Supp. 21-5111, 22-2307 and 60-3107 and repealing the existing sections, by Committee on Judiciary.

**SB 416**, AN ACT concerning crimes, punishment and criminal procedure; relating to law enforcement policies regarding domestic violence calls; requiring officers investigating alleged domestic violence to conduct a lethality assessment; amending K.S.A. 2021 Supp. 22-2307 and repealing the existing section, by Committee on Judiciary.

**SB 417**, AN ACT concerning health and environment; relating to solid waste; establishing minimum and maximum permit renewal fees for certain disposal areas and processing facilities; amending K.S.A. 65-3407 and repealing the existing section, by Committee on Agriculture and Natural Resources.

**SB 418**, AN ACT concerning elections; prohibiting the modification of election laws by agreement except as approved by the legislative coordinating council; amending K.S.A. 25-125 and repealing the existing section, by Committee on Federal and State Affairs.

## SENATE CONCURRENT RESOLUTION No. SCR 1618—

By Committee on Judiciary

A PROPOSITION to amend article 1 of the constitution of the state of Kansas by adding a new section thereto, concerning oversight by the legislature of certain executive branch actions.

*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: Article 1 of the constitution of the state of Kansas is hereby amended by adding a new section to read as follows:

**"§ 17. Legislative oversight of administrative rules and regulations.** Whenever the legislature by law has authorized any officer or agency within the executive branch of government to adopt rules and regulations that have the force and effect of law, the legislature may provide by law for the revocation or suspension of any such rule and regulation, or any portion thereof, upon a vote of a majority of the members then elected or appointed and qualified in each house."

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

*"Explanatory statement.* The purpose of this amendment is to provide the legislature with oversight of state executive branch agencies and officials by providing the legislature authority to establish procedures to revoke or suspend rules and regulations.

"A vote for this proposition would allow the legislature to establish procedures to revoke or suspend rules and regulations that are adopted by state executive branch agencies and officials that have the force and effect of law.

"A vote against this proposition would allow state executive branch agencies and officials to continue adopting rules and regulations that have the force and effect of law without any opportunity for the legislature to directly revoke or suspend such rules and regulations."

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 the year 2022, 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:

Education: **SB 393**.

Federal and State Affairs: **SB 394, SB 396, SB 397**.

Financial Institutions and Insurance: **SB 392**.

Judiciary: **SB 395**.

**CHANGE OF REFERENCE**

The President withdrew **SB 371** from the Committee on **Transportation**, and referred the bill to the Committee on **Judiciary**.

**CONSIDERATION OF APPOINTMENTS**

In accordance with Senate Rule 55, the following appointments submitted to the Senate for confirmation were considered.

Senator Alley moved the following appointment be confirmed as recommended by the Committee on **Confirmation and Oversight**.

*By the Governor*

On the appointment to the:

*State Board of Indigents Defense Services:*

Laurel Driskell, Term ends January 15, 2024

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, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Suellentrop.

The appointment was confirmed.

*State Board of Indigents Defense Services:*

Michelle Ewert, Term ends January 15, 2023

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, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Suellentrop.

The appointment was confirmed.

*State Banking Board:*

Taylor Hight, Term ends March 15, 2024

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, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Suellentrop.

The appointment was confirmed.

*University of Kansas Hospital Authority:*

Jack Newman, Term ends March 15, 2024

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, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Suellentrop.

The appointment was confirmed.

*State Board of Indigents Defense Services:*

Braden Perry, Term ends January 15, 2023

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, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Suellentrop.

The appointment was confirmed.

*State Board of Tax Appeals:*

Devin Sprecker, Term ends January 15, 2024

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, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Suellentrop.

The appointment was confirmed.

*University of Kansas Hospital Authority:*

Debbie Wilkerson, Term ends March 15, 2025

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, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Suellentrop.  
The appointment was confirmed.

### 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 Baumgardner in the chair.

On motion of Senator Baumgardner the following report was adopted:

**SB 347** be amended by the adoption of the committee amendments, be further amended by motion of Senator Erickson; on page 59, following line 16, by inserting:

"New Sec. 15. The secretary of commerce shall not enter into any agreement with a qualified firm or qualified supplier pursuant to section 2, and amendments thereto, on and after March 31, 2023.";

And by renumbering sections accordingly

**SB 347** be further amended by motion of Senator Erickson; on page 2, in line 5, after "(7)" by inserting "'Foreign trade zone" means the same as provided in the foreign-trade zones act of 1934, 19 U.S.C. 81a et seq.;

(8)";

On page 4, in line 23, by striking the colon; by striking all in lines 24 through 31; in line 32, by striking all before the period and inserting "is a supplier of components, sub-assemblies, chemicals or other process-related tangible goods and that is owned by:

(A) An individual, any partnership, association, limited liability corporation or corporation domiciled in Kansas; or

(B) any business, including any business owned by an individual, any partnership, association, limited liability corporation or corporation, even if the business is a wholly owned subsidiary of a foreign corporation, that operates in the state of Kansas for the purpose of supplying a qualified firm";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 7, in line 17, after "repayment" by inserting ", at the direction of the secretary of commerce,"; also in line 17, after "all" by inserting "unearned"; in line 19, by striking all after the second "the"; by striking all in line 20; in line 21, by striking all before the period and inserting "qualified firm does not make a qualified business investment of at least \$1,000,000,000";

On page 8, in line 34, after "in" by inserting "any other economic development program or fund administered by the secretary of commerce, including, but not limited to, the STAR bond program,";

On page 17, in line 34, after the period by inserting "The secretary of commerce shall certify to the secretary of revenue that a qualified supplier is eligible and the date of eligibility of the qualified supplier."

and **SB 347** be passed as further 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 347** was advanced to Final Action and roll call.

**SB 347**, AN ACT concerning economic development; enacting the attracting powerful economic expansion act; relating to tax and other incentives for projects in

specified industries or for a national corporate headquarters with specified capital investment requirements of at least \$1,000,000,000; providing for an income, privilege and premium tax credit for a portion of such investment; reimbursement of certain payroll costs and training and education costs; retention of certain payroll withholding taxes; sales tax exemption for project construction and a property tax incentive for certain projects located in a foreign trade zone; adjusting the income tax on corporations by reducing the rate by 0.5% after any fiscal year that incentives under this act are received by a business; establishing the attracting powerful economic expansion payroll incentive fund and the attracting powerful economic expansion new employee training and education fund; amending K.S.A. 79-32,110 and K.S.A. 2021 Supp. 79-3606 and repealing the existing sections.

On roll call, the vote was: Yeas 32; Nays 7; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Billinger, Bowers, Claey's, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Petersen, Pettey, Pittman, Pyle, Ryckman, Sykes, Ware, Warren, Wilborn.

Nays: Baumgardner, Hilderbrand, Peck, Steffen, Straub, Thompson, Tyson.

Absent or Not Voting: Suellentrop.

The bill passed, as amended.

#### EXPLANATION OF VOTE

Mr. President: I stand in support of this bill. I find the unique approach of incorporating a supply chain footprint innovative. It's targeted to a specific class of business where they invest \$1 billion or more in our economy. It's going to provide jobs for our working families. It will allow us to be competitive, and drive our state forward in advanced manufacturing and other industries, where we need to innovate to stay competitive not only in the United States but on the Global stage. This APEX program has performance based-incentives, tax credits, and payroll refunds only after companies make the investment. I would rather have a little bit of something than a little bit of nothing.—JEFF PITTMAN

Senator Faust-Goudeau requests the record to show she concurs with the "Explanation of Vote" offered by Senator Pittman on **SB 347**.

Mr. President: **SB 347** is a scheme that pursues blue sky. It is the aspiration of cheerleaders, not serious businessmen/women. This sort of activity is not part of our Constitutional mandate and is not supported by the grassroots business owners and workers of Kansas.—MARK STEFFEN

Mr. President: All of us want economic policies that drive businesses and associated economic activity to Kansas. We welcome large companies and small companies and everything in between. **SB 347** contains a number of incentives that have noble and important goals, and certainly the magnitude of the project is significant. However, at this point, I am concerned about the impact on small and mid-size businesses that aren't granted the same incentive and now know the government is putting its thumb on the scale. Today, I received a call from a small businessperson in my district who was concerned about that very thing. I am pleased that the legislation contains provisions



that do level the playing field on corporate income taxes, as well as the sunset that helps with oversight, and appreciate that both were included. However, at this point I must vote No.—MIKE THOMPSON

Mr. President: This bill brings up several competing factors to consider. On one hand, we welcome private sector investment to Kansas to increase the number of high-quality jobs, thus making our state a more attractive place to earn a living – and the potential of projects of such a large magnitude to grow the Kansas economy is certainly appealing. On the other hand, we need to be extremely judicious in the use of economic incentives that have the potential of undermining economic fairness and place the state government in the position of picking between winners and losers, when we should be moving towards policies that benefit all businesses in Kansas. **SB 347**, as currently constructed, mitigates those concerns in two ways. First, it uses proceeds to lower the corporate income tax that will help level the playing field for all corporations in Kansas. Second, it includes a sunset just on the horizon so the legislature can ensure the legislation is being enacted as intended. On balance, due to the potential to drive significant economic activity in Kansas, combined with the efforts to level the playing field and ensure proper oversight, I stand in support. I vote Yes.—KELLIE WARREN

Senators Billinger, Erickson, Fagg and Gossage request the record to show they concur with the "Explanation of Vote" offered by Senator Warren on **SB 347**.

#### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **SB 358** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Transportation** recommends **SB 332** be amended on page 1, in line 13, after "thereto" by inserting ", while workers are present"; and the bill be passed as amended.

#### REPORT ON ENROLLED BILLS

**SB 355** reported correctly enrolled, properly signed and presented to the Governor on January 27, 2022.

**SR 1725, SR 1726, SR 1727** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on January 27, 2022.

On motion of Senator Alley, the senate adjourned pro forma until 9:00 a.m. January 28, 2022.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

