

Journal of the Senate

EIGHTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, February 7, 2019, 2:30 p.m.

The Senate was called to order by Vice President Longbine.

The roll was called with 40 senators present.

The Vice President introduced guest Chaplain, Reverend Sarah Oglesby-Dunegan, Unitarian Universalist Church of Topeka and guest of Senator Miller to deliver the invocation:

Spirit of Life and Love, God of many names and no name at all; here in this, the people's house, be with this body of leaders as they endeavor to serve communities across our state. Guide each heart and mind in making decisions that create sustainable communities with access to the resources of life and liberty for all. Guide each to build capacity and collaborate across differences, challenges and complexity.

Be with the people of Kansas, whose lives are impacted everyday by the decisions made here and whose voices are seldom heard here – teachers and children and youth in our schools and in programs like foster care and juvenile services, low wage workers struggling for adequate housing and healthcare, families in our domestic violence and homeless shelters, disabled people, the elderly, men and women serving time in jail or prison, military personnel and veterans, and immigrants working and contributing to our communities.

Walk with us in our discernment and guide us to listen and make careful decisions for the good of all people and places in this state. Guide these leaders and the many people who enter this building to look less for personal gain or expediency and endeavor instead for accountability and transparency to define the bottom line by more than money – to define it by the level of access and opportunity for all.

May we be a blessing to one another and this State of Kansas as You, Spirit of Life, have been a blessing to us. Although we pray with different names for the Holy, let our hearts be connected in unified purpose for the common good. May it ever be so, Amen.

The Pledge of Allegiance was led by Vice President Longbine.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 120, AN ACT concerning health and healthcare; providing for a certificate of authorization for a business entity to practice medicine; amending K.S.A. 65-2803, 65-2836 and 65-2877a and K.S.A. 2018 Supp. 40-3401 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 121, AN ACT concerning retirement and pensions; relating to the Kansas police

and firemen's retirement system; affiliation and membership of certain local adult and juvenile corrections employees, by Committee on Financial Institutions and Insurance.

SB 122, AN ACT concerning foster care; relating to foster care youth and certain former foster care youth; providing medicaid and educational services thereto, by Committee on Public Health and Welfare.

SB 123, AN ACT concerning sales taxation; relating to exemptions; kids need to eat, inc.; amending K.S.A. 2018 Supp. 79-3606 and repealing the existing section, by Committee on Assessment and Taxation.

SB 124, AN ACT concerning the state corporation commission; relating to electric utilities; electric rates; certain charges prohibited; amending K.S.A. 66-117d and repealing the existing section, by Committee on Ways and Means.

SB 125, AN ACT concerning economic development; relating to rural opportunity zones; extending the time period for eligibility in the loan repayment program and the income tax credit; amending K.S.A. 74-50,223 and K.S.A. 2018 Supp. 79-32,267 and repealing the existing sections, by Senators Hilderbrand, Alley, Baumgardner, Berger, Billinger, Bowers, Doll, Estes, Givens, Goddard, Hawk, Longbine, Masterson, Olson, Petersen, Pyle, Rucker, Skubal, Suellentrop, Taylor and Wilborn.

SB 126, AN ACT concerning income taxation; relating to certain public utilities; exemption from income tax; income tax expenses, exclusion from retail rates; amending K.S.A. 79-32,113 and repealing the existing section, by Committee on Assessment and Taxation.

SB 127, AN ACT concerning public utilities; relating to recovery of income tax expenses; income tax reimbursement charge, by Committee on Assessment and Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture and Natural Resources: **SB 110**, **SB 111**, **SB 112**, **SB 117**.

Assessment and Taxation: **HB 2063**.

Commerce: **HB 2044**.

Ethics, Elections and Local Government: **SB 105**, **SB 115**, **SB 116**; **SCR 1605**.

Financial Institutions and Insurance: **SB 109**.

Judiciary: **SB 106**, **SB 107**, **SB 108**, **SB 114**, **SB 119**.

Public Health and Welfare: **SB 113**.

Ways and Means: **SB 118**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Estes, Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Ware and Wilborn introduced the following Senate resolution, which was read:

A RESOLUTION recognizing February 7, 2019, as JAG-K Day at the Capitol

WHEREAS, Jobs for America's Graduates-Kansas (JAG-K) is a Section 501(c)(3) not-for-profit organization that partners with public schools, communities and employers to help students prepare for successful futures; and

WHEREAS, JAG-K is a state affiliate of the national JAG program, which operates in 35 states and territories. Its curriculum emphasizes graduation from high school and prepares students for postsecondary education or entering the workforce directly; and

WHEREAS, JAG-K is committed to partnering with students to overcome barriers to graduation from high school and prepare them for college or career pathways that will help them reach their full potential as leaders for their families, employers, communities, Kansas and our nation; and

WHEREAS, There are 81 JAG-K programs located in 38 school districts across Kansas during the 2018-19 school year. In addition to school districts, JAG-K partners include the Kansas Department for Children and Families and the Kansas Department of Education; and

WHEREAS, In a small group classroom setting, students explore career opportunities and learn the skills necessary to successfully transition to postsecondary education, military service or the workforce following their graduation; and

WHEREAS, JAG-K is an evidence-based program with objective performance measures; and

WHEREAS, JAG-K has a 98% graduation rate statewide and a 92% success rate statewide; and

WHEREAS, Nationally, JAG graduates are 230% more likely to be employed than peers not in a JAG program: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize February 7, 2019, as JAG-K Day at the Capitol; and

Be it further resolved: That the Secretary of the Senate shall send four enrolled copies of this resolution to Senator Estes.

On emergency motion of Senator Estes **SR 1707** was adopted unanimously.

Guests introduced were Ezariah Rodriguez, Ana Resendiz, Mekinzie Rojas, Bailey Pauley, Kristofer Tolman, Haydn Mason, Gage Mason, Bryar Belt, Carly Condella, Chuck Knapp and Bev Mortimer.

The senate honored the guests with applause.

Senators Kerschen, Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Denning, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Longbine, Lynn, McGinn, Miller, Olson, Petersen, Pettey, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Ware and Wilborn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1708—

A RESOLUTION honoring the Kansas Farm Bureau, its 105 county Farm Bureaus, and the many Kansas farmers and ranchers who provide food, fuel, and fiber to the citizens of Kansas and to people around the world.

WHEREAS, For 100 years, the Kansas Farm Bureau has played a critical role as the *Voice of Agriculture* throughout Kansas, the United States, and around the world; and

WHEREAS, In 1919, the Bureau was established as a grassroots organization by a group of members united in the belief that together they could better protect their way of life and achieve better futures for their families and communities; and

WHEREAS, The Bureau successfully defended Kansas's agricultural industry by lobbying for a constitutional amendment allowing for use-value appraisal of agricultural land. This enabled Kansas farms to continue operations without being devastated by high market values taxation; and

WHEREAS, The Bureau successfully mobilized to help pass a constitutional amendment that adjusted commercial property classification rates. Through its efforts, the Bureau helped thwart the opportunity to broaden the tax base with livestock and farm machinery; and

WHEREAS, The Bureau helped protect Kansas property rights through eminent domain reform. In 2006, these efforts culminated in the passage of Substitute for Senate Bill No. 323; and

WHEREAS, The Bureau has long played a critical role in safeguarding property rights through the protection of natural resources; and

WHEREAS, As part of a coalition including the American Farm Bureau, the Kansas Corn Growers Association, and other farm bureaus from Colorado, New Mexico, and Texas, the Bureau successfully challenged the U.S. Fish and Wildlife Service's April 2014 decision to list the lesser prairie chicken as a threatened species; and

WHEREAS, The Bureau advocates, educates, and serves Kansas farmers and ranchers through a wide range of programs, including agriculture education, leadership development, legal defense, rural development, and international trade. Through its work, the Bureau is dedicated to offering common sense solutions to challenges facing agriculturalists, small business owners, and rural communities; and

WHEREAS, Currently, the Bureau is working to ensure every Kansan has access to high-speed broadband service, no matter where they live and work. The Bureau believes high-speed service is vital to emergency services, educational opportunities, and precision agriculture. The Bureau is also seeking affordable solutions to ensure all members have access to health care; and

WHEREAS, The Bureau reaffirms it will continue to inform when needed, protect when challenged, and fight for the lives of rural Kansans and their communities: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor the Kansas Farm Bureau, its 105 county Farm Bureaus, and the many Kansas farmers and ranchers who provide food, fuel, and fiber to the citizens of Kansas and to people around the world. Through its leadership and devotion to the citizens and communities of rural Kansas, the Kansas Farm Bureau embodies the spirit and qualities we associate with the very best of Kansans; and

Be it further resolved: That the Secretary of the Senate shall send six enrolled copies of this resolution to Senator Kerschen.

On emergency motion of Senator Kerschen **SR 1708** was adopted unanimously.

The senate honored the Farm Bureau guests with a standing ovation.

Senator Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1709—

A RESOLUTION congratulating and commending

2018 Milken Educator Award winner Linda Dishman.

WHEREAS, The Milken Educator Awards program, established by the Milken Family Foundation, recognizes the top educators in the country. Often deemed the "Oscars" of the teaching world, the program provides awards to elementary and secondary school teachers, principals, and other educational professionals who inspire excellence; and

WHEREAS, Linda Dishman, educator at Berryton Elementary School in Shawnee Heights USD 450, has been selected as the Kansas recipient of the 2018 Milken Educator Award; and

WHEREAS, The award was presented to Dishman in person by the Milken Family Foundation's co-founder Lowell Milken alongside former Governor Jeff Colyer in front of the students and staff at Berryton Elementary on October 12, 2018; and

WHEREAS, Dishman is the only award winner from Kansas among this year's 40 honorees. The award includes a \$25,000 cash prize; and

WHEREAS, Dishman earned her bachelor's degree in elementary education from Washburn University in 2012 and a master's degree in education from Fort Hays State University in 2018; and

WHEREAS, All Milken Educator Award winners will convene at the Milken Educator Forum in Washington, D.C., for professional development opportunities to continue and strengthen their teaching and leadership excellence: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Linda Dishman for being an outstanding Kansas educator and receiving the 2018 Milken Educator Award; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Hensley.

On emergency motion of Senator Hensley **SR 1709** was adopted unanimously.

Guests introduced were Linda Dishman, Renae Hansen, Eric Deitcher, Erica Price, Rosa Cavazos, Marty Stessman, Stacy Giebler, Lauren Tice Miller and Ann Mah.

The senate honored Linda and guests with a standing ovation.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 22, AN ACT concerning taxation; relating to income tax; addition and subtraction modifications, treatment of deferred foreign income, global intangible low-taxed income, business interest, capital contributions and FDIC premiums; Kansas itemized deduction, election; amending K.S.A. 2018 Supp. 79-32,117, 79-32,120 and 79-32,138 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 26; Nays 14; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Denning, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pilcher-Cook, Pyle, Rucker, Suellentrop, Tyson, Wagle, Wilborn.

Nays: Bollier, Doll, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Miller, Pettey, Skubal, Sykes, Taylor, Ware.

The bill passed.

EXPLANATION OF VOTE

Mr. Vice President: I vote in support of **SB 22** with considerable reservations. I understand and support providing the opportunity for 1000's of Kansans to itemize their deductions which **SB 22** accomplishes. I also see the need to be competitive with other states in not taxing repatriated funds. It seems to me that not approving this provision would put Kansas at a disadvantage as the state not only actively recruits companies and industries to Kansas but also as it makes strong efforts to grow existing business in the state. However the lack of a reliable estimate on the fiscal impact of **SB 22** is very troubling. Kansas is a state that has a very fragile economy and we have now had two months with lower than expected revenues. It is my expectation that the fiscal impact of this bill be monitored carefully to avoid any deleterious consequences for the State of Kansas.—ED BERGER

Senators Billinger, Bowers, Givens, Hardy, Lynn, McGinn and Petersen request the record to show they concur with the "Explanation of Vote" offered by Senator Berger on **SB 22**.

Mr. Vice President: At this time, I find it fiscally irresponsible to support a change to our tax code that diminishes our state revenues, especially when the actual amount is speculative. When the legislature has presented and passed a budget, we can then move forward assessing our revenue stream and make changes to our tax code while funding those programs we find essential to the people of Kansas. Until we have fully funded our public schools, eliminated our waiting lists for home and community-based services, and brought back our federal dollars to expand Medicaid, I vote "NO" on **SB 22**.—BARBARA BOLLIER

Senators Francisco, Hawk, Hensley, Pettey and Sykes request the record to show they concur with the "Explanation of Vote" offered by Senator Bollier on **SB 22**.

Mr. Vice President: I vote "NO" on **SB 22**. As we discuss the impact of tax policy changes at the federal level on our state taxes, I hope we would focus on issues of equity, adequacy, and ease of administration. Eliminating taxes on repatriation and GILTI business income raises concerns of both equity and adequacy; allowing Kansas filers to itemize deductions even if they choose to take the standard Federal deduction makes it more difficult and expensive to administer. The change in the Federal standard deduction expires in 2025. It is estimated that the costs of making changes for this at the state level will be nearly \$820,000 in FY 2020; there will be continuing costs for auditing. These costs will be paid by Kansas taxpayers. As we continue the discussion on taxes, I hope we look to different proposals such as increasing the Kansas standard deduction or reducing the sales tax on food that better address issues of equity, adequacy, and ease of administration in our tax policies. —MARCI FRANCISCO

Senators Hawk, Pettey and Sykes request the record to show they concur with the "Explanation of Vote" offered by Senator Francisco on **SB 22**.

Mr. Vice President: I vote "NO" on **Senate Bill 22**. This bill is bad policy that has been rushed through the process. It puts us back on the same path as the disastrous Brownback tax experiment, which led to deep cuts to schools, delayed transportation projects, and devastated our foster care system and other services for our most vulnerable Kansans. Kansans don't want more irresponsible policies. They made that clear when they elected a governor committed to stabilizing the budget and investing in

the future of Kansas. We should exercise restraint with the budget surplus instead of squandering the surplus on reckless tax policy. If we were to make tax policy changes, those changes should benefit every Kansan or, at the very least, those who need it the most. Giant multinational corporations with record profits don't fit into either category. For the cost of this bill, the food sales tax rate could be cut in half. Or, for a fraction of the cost, the food sales tax rebate could be restored to benefit 380,000 elderly, disabled, and low-income Kansans. Or, the standard deduction could be raised for Kansas families. It is for these reasons that I vote "NO."—ANTHONY HENSLEY

Senators Faust-Goudeau, Hawk and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **SB 22**.

Mr. Vice President: Many who voted for a so called tax cut, which we know was a 350 million dollar tax hike/revenue grab, HB 2059 in 2013 (which took away many of the same deductions presented in **SB 22**) now claim they are voting for **SB 22** because they are protecting families by lowering the taxes on families. It is good to see them now appropriately voting for tax reform which REALLY does work in favor of the hardworking families of Kansas! Dare I ask, Does the Flip Flop fit?—DENNIS PYLE

Mr. Vice President: I vote "NO" for **SB 22**. There are definitely things in the bill that makes it an attractive vote. However, there is one overriding objection I have. That is the sequence and timing of the tax cut. The state has mandated obligations that have not yet been addressed. We must prioritize those mandates, such as school finance, before making other budgetary adjustments. It is my hope that that the legislature can address its mandated responsibilities, then address tax cuts.—MARY JO TAYLOR

Senators Bollier, Haley, Hawk, Miller and Sykes request the record to show they concur with the "Explanation of Vote" offered by Senator Taylor on **SB 22**.

Mr. Vice President: I vote "AYE" on **Senate Bill 22**, to prevent another tax increase on Kansas families and businesses. This bill allows parents, including hardworking single moms and dads, to take advantage of the increased federal standard deduction while also providing the ability to write off their property tax and mortgage deduction on state taxes. **Senate Bill 22** empowers businesses that employ thousands of Kansans in every corner of our great state, the ability to repatriate foreign assets so they can continue to invest here at home, contributing to our economic health. Today, the Kansas Senate sends the signal that Kansas is open for business by refusing to stifle domestic investment. Today, we care for our senior citizens by allowing them the ability to write off their medical expenses. Today, we protect our Kansas families and businesses by not imposing a new tax on them, but instead, provide tax equity with some of our bordering states that have already done this. Today, we say no new barriers that suffocate job creation. I vote "AYE" to decouple from the federal tax system, protecting Kansas' future prosperity for all our children and grandchildren who will call this great state, home.—SUSAN WAGLE

Senators Baumgardner, Lynn, Petersen and Pilcher-Cook request the record to show they concur with the "Explanation of Vote" offered by Senator Wagle on **SB 22**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2001**, **HB 2038**, **HB 2039**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2001, HB 2038, HB 2039 were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 19** be passed.

Also, **SB 20** be amended on page 4, in line 11, by striking all after the period;

On page 7, in line 13, by striking all after the period; in line 14, by striking all before "the"; in line 36, by striking all before "the";

On page 11, in line 26, by striking all after the period; in line 27, by striking all before "the";

On page 17, in line 4, by striking all after the period; in line 5, by striking all before "the";

On page 20, in line 2, by striking all after the period; in line 3, by striking all before "the";

On page 21, in line 3, by striking all after the period; in line 4, by striking all before "the";

On page 22, in line 28, by striking all after the period; in line 38, by striking all after the period; in line 39, by striking all before "the";

On page 23, in line 38, by striking "on and after July 1, 2019, through June 30, 2021,";

On page 24, in line 40, by striking all after the period;

On page 26, in line 24, by striking all after the period; in line 25, by striking all before "the"; in line 35, by striking all after the period; in line 36, by striking all before "the";

On page 28, in line 43, by striking all before "the";

On page 31, in line 19, by striking all after the period; in line 20, by striking all before "the";

On page 32, in line 40, by striking all after the period;

On page 33, in line 34, by striking all before "the";

On page 34, in line 5, by striking all after the period; in line 6, by striking all before "the";

On page 36, in line 7, by striking all after the period; in line 8, by striking all before "the";

On page 37, in line 10, by striking all after the period; in line 27, by striking all after the period; in line 41, by striking all before "the"; and the bill be passed as amended.

SB 18 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

On motion of Senator Denning, the Senate adjourned until 8:00 a.m., Friday, February 8, 2019.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

