

# Journal of the Senate

FIFTY-NINTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, May 14, 2019, 2:30 p.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 39 senators present.

Senator Givens was excused.

Invocation by Reverend Cecil T. Washington:

Heavenly Father, on three different occasions, in the book of Acts 10:15, You told Peter, when You have smiled on a group of people and declared them as proper in Your eyes, to never look down on them, or say they are unfit. Then in verse 28, we see that Peter heard You. He began to advocate and champion the idea of looking at people from Your perspective, through Your Eyes.

It was May 17th, 1954, that our society was again challenged in the *Brown v. Board of Education* ruling, to start looking at African Americans and people of different ethnicities from Your perspective, again, through Your Eyes. Lord, as that decision helped to inspire the Civil Rights movement of the 50s and 60s, so let its Anniversary re-inspire. Use the ongoing celebrations to remind us that Your love, grace and mercies are extended to all of us equally. And all we need is to be open, to be receptive.

So, help us Lord! Help us to stop comparing ourselves to ourselves by ourselves. You've made us all different, but the goal for all of us is to be like You. So Lord, as we exercise the levels of influence You've given us let our history reflect that not only were we recipients of Your love, Your grace and Your mercy, but we were also impartial distributors; conduits letting You flow through.

I come to You in the Name of Your Son, the One Who Loved Us To Death. Amen!

The Pledge of Allegiance was led by President Wagle.

## MESSAGES FROM THE GOVERNOR

March 15, 2019

*To the Senate of the State of Kansas*

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Laura Kelly  
*Governor*

*Judge, Kansas Court of Appeals, Jeffrey Jack, Parsons, (U) pursuant to the authority vested in me by the K.S.A. 20-3020 and effective upon the date of confirmation by the*

Senate, to serve for the duration as outlined in/by K.S.A. 20-3010, to succeed Patrick McAnany.

#### REFERENCE OF APPOINTMENTS

The President referred the appointment of Jeffrey Jack to the full Senate for debate.

#### CONSIDERATION OF APPOINTMENTS

In accordance with Senate Rule 55, the following appointment, submitted by the Governor to the Senate for confirmation was considered. Senator Denning moved the following appointment be confirmed.

By the Governor

On the appointment to the:

*Kansas Court of Appeals:*

Jeffrey Jack

On roll call, the vote was: Yeas 0; Nays 38; Present and Passing 1; Absent or Not Voting 1.

Nays: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Goddard, 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, Wilborn.

Present and Passing: Haley.

Absent or Not Voting: Givens.

The appointment was not confirmed.

#### EXPLANATION OF VOTE

Madam President: I am totally frustrated with a nomination and confirmation process that can be characterized as a cluster gaggle. To begin with, we wouldn't be here if the governor's staff had completed a thorough vetting of the candidate. Following the failure to vet in depth, the Governor made her nomination and submitted it to the Senate late. In the meantime certain social media postings by the candidate came to light that stirred up a firestorm of controversy. As a result the Governor withdrew her nomination and Judge Jack indicated he would not serve on the Appellate Court. So we are here today, at taxpayer expense, due to a Kansas Supreme Court ruling that would seat Judge Jack unless the Senate votes not to confirm him even though the Governor has withdrawn her nomination, Judge Jack indicated he would not serve and the Senate Judiciary Committee never had the opportunity to conduct a confirmation hearing. We should all be upset with a failed bureaucratic process and commit to fixing it during the 2020 legislative session. My vote stands as a no.—DAN GODDARD

Madam President: I respectfully Vote "Present and Passing" on the nomination of Judge Jeffrey Jack to the Kansas Court of Appeals. Suffice it to say, based on the full review of social media dialogue ascribed to him after the thorough review of his judicial temperament, ability to render unbiased decisions and overall qualifications as adjudicated by the Judicial Selection, I could not be (were this debate and vote on the "other foot" ) the 21<sup>st</sup> vote to confirm him. However Madame President (and, apparently, ever other Member of the Chamber), I actually worked with Jeffrey Jack

when, as a colleague in the House and I, of course, the Senate, we actually served and often debated issues on our respective Judiciary and Joint committees. He, a Republican, and I, a Democrat, (as was sometimes even true too with now Court of Appeals Judge and former Kansas State Representative Anthony Powell) were very opinionated in our personal ideals but would always listen to the pros and cons of conferees before making our decisions. Apparently, this skilled dichotomy has followed the Judge in his service on the bench as an impartial and fair jurist leading professionals and laypeople to recommend him to the Governor among and over other distinguished nominees. I remain a staunch proponent of the Judicial Selection committee process, where the insights of many are employed prior to recommendation for appointment, to that of a solo, often purely ideologue-driven selection by the Executive branch prior to our Senate deliberations. I respect the nominee enough and the process enough to merely break the Body's unanimity on this vote. As outlined in the previous paragraph, obviously you here do not know Jack as I and others do.—DAVID HALEY

#### MESSAGES FROM THE GOVERNOR

May 14, 2019

*To the Senate of the State of Kansas*

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Laura Kelly  
*Governor*

*Judge, Kansas Court of Appeals, Sarah Warner, Lenexa, (R) pursuant to the authority vested in me by the K.S.A. 20-3020 and effective upon the date of confirmation by the Senate, to serve for the duration as outlined in/by K.S.A. 20-3010, to succeed Patrick McAnany.*

#### REFERENCE OF APPOINTMENTS

The following appointment made by the Governor and submitted to the Senate for confirmation, was referred by the Senate President to Committee as indicated:

Judge, Kansas Court of Appeals:

Sarah Warner.

(Judiciary)

On motion of Senator Denning, the Senate adjourned until 10:00 a.m., Wednesday, May 29, 2019.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

