

Journal of the Senate

FORTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 22, 2017, 2:30 p.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 40 senators present.

The President introduced Reverend LeSean Tarkington, Grant Chapel AME Church in Wichita, to deliver the invocation. Reverend Tarkington is a guest of Senator Haley.

We pray for our nation with hopes that those elected to lead, at every level, will work now for Your people. We pray these men and women will humble themselves to the sacred task of governing for the people who cast votes. We pray for legislators who will care about jobs for the unemployed and underemployed, education and opportunity for children, and health care for all, especially the most vulnerable among us. We pray for laws that will protect and respect the earth, this planet created to be a home for all humanity. We pray for governance that knows the difference between a financial system and an economy, that seeks to protect all living organisms of earth and human life. We pray for wisdom not rhetoric, generosity not indifference and justice not patronage. We want legislators working across the aisle, not erecting barriers like the border walls that imprison even those who seek to keep others out. We pray for a just sharing in the expense of government, let those blessed with great wealth give according to their means, let all give as they are able. We pray for leaders gifted in diplomacy, blessed with character and integrity; leaders who know our security comes from relationships of trust and communication, working together in peace and harmony. Precious Creator, give us the patience to give our leaders a chance to govern with grace, compassion, justice, and love. Let us support sincere effort and celebrate wise compromise. Make us accountable to our faith and so hold those we elect accountable to serve all the people. For our health we say thank You. For our life we say thank You. For the opportunity to servant lead we say thank You. Amen

The Pledge of Allegiance was led by President Susan Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 236, AN ACT concerning income taxation; relating to certain net operating losses; amending K.S.A. 2016 Supp. 79-32,143 and repealing the existing section, by Committee on Assessment and Taxation.

SB 237, AN ACT concerning tribal-state compacts; approving a compact between the Sac and Fox Nation of Missouri in Kansas and Nebraska and the state of Kansas;

relating to cigarette sales, taxation and escrow collection, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **Sub HB 2331**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Hensley, Kelly and V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1729—

A RESOLUTION congratulating and commending Reverend Shirley D. Heermance and the members of St. Mark's African Methodist Episcopal (A.M.E.) Church for receiving an African American Civil Rights Grant from the United States National Park Service.

WHEREAS, St. Mark's A.M.E. Church, in historic North Topeka, was established by a group of emancipated slaves known as "Exodusters," who migrated to Kansas from Mississippi, Louisiana, Georgia and Texas, and worked at various jobs around Topeka; and

WHEREAS, St. Mark's is a part of the A.M.E. Church, the oldest African American incorporated religious denomination in America, which was born out of civil unrest and survived incredible perils, including attacks by the Ku Klux Klan, to establish Christian missions in the young state of Kansas; and

WHEREAS, St. Mark's endured extraordinary prejudices and racial hostilities while forming into a congregation that began a rich history of civil rights involvement from its founding in 1880; and

WHEREAS, Despite facing many adversities through the years, St. Mark's has continued to serve as a beacon in the North Topeka community that has illuminated the city, state, nation and world; and

WHEREAS, Reverend Oliver L. Brown, who was assigned as pastor of St. Mark's in 1953, was one of 12 plaintiffs listed in a public school desegregation suit originally filed in 1951. Brown's name was listed first, as he was filing on behalf of his daughter, Linda. The case reached the United States Supreme Court as *Brown v. Board of Education*, which declared segregation in public schools to be unconstitutional in 1954; and

WHEREAS, Linda Brown Thompson, the daughter of Reverend Brown, remains a member of St. Mark's and, until recent health problems, was the church's pianist; and

WHEREAS, Bishop Vinton R. Anderson, who served as pastor at St. Mark's, was the 92nd A.M.E. Church bishop and also one of the presidents of the World Council of Churches. Bishop Anderson died at the age of 86 in 2014; and

WHEREAS, Other notable members of St. Mark's include: Carolyn Wims-Campbell, the first African American elected to the Kansas State Board of Education; Joseph Johnson, the first African American District Court Judge in Shawnee County; Terry Crowder, former vice-chairman of the Kansas Human Rights Commission; and Foster Chisholm, current Sergeant of Arms for the Kansas House of Representatives, along with many other political and civic leaders, educators, doctors, lawyers and

missionaries; and

WHEREAS, One hundred and sixty-four organizations and churches applied to the United States National Park Service's (NPS) African American Civil Rights Grant Program and St. Mark's application was among 39 projects in 20 states that were approved. In total, the NPS awarded \$7.5 million in grants with St. Mark's receiving \$231,804 for rehabilitation of the exterior and interior of its brick building, which was built in 1914, and will be 103 years old in May: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Reverend Shirley D. Heermance and the members of St. Mark's African Methodist Episcopal Church for receiving an African American Civil Rights Grant from the United States National Park Service; and

Be it further resolved: That we thank Reverend Heermance and her congregation for doing God's work in North Topeka and in the Topeka community at large through the years, and we extend our best wishes for their continued prosperity, spiritual growth and success; and

Be it further resolved: That the Secretary of the Senate shall send 20 enrolled copies of this resolution to Senator Hensley.

On emergency motion of Senator Hensley **SR 1729** was adopted unanimously.

Other guests introduced were Vance Kelley, Dannette Jackson, Betty Moore, Diann Boldridge, Foster Chisholm, Karlene Williams, Terry Crowder, Howard Harvey, Lana Fay Barber and Carolyn Campbell.

The senate honored Rev. Heermance and other guests with a standing ovation.

Senators Rogers, Alley, Estes, Faust-Goudeau, Hardy, McGinn, Petersen and Wilborn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1730—

A RESOLUTION commemorating the 150th anniversary of the historic Chisholm Trail.

WHEREAS, The Chisholm Trail is celebrating its 150th anniversary after a long and storied history including the birth of the American folk-type cowboy, cowtowns, cowboy hats and the beginning of the Old West era in Kansas; and

WHEREAS, The Chisholm Trail was initially developed in 1867 by Joseph McCoy, an Abilene stockyard owner, and was named after Jesse Chisholm, a Kansan who owned a trading post in Wichita and frequently traded with Native Americans throughout the region; and

WHEREAS, In the Chisholm Trail's heyday from the late 1860s through the 1880s, it stretched roughly from Lockhart, Texas to Abilene, Kansas, and served as a cattle pipeline leading herds from the Texas ranches to the Kansas stockyards and railroad hubs in Abilene, Caldwell, Dodge City, Ellsworth, Newton and Wichita; and

WHEREAS, The trail was an economic lifeline for Kansas, promoting the railroad and making ranching profitable by shipping millions of heads of cattle to the eastern parts of the country using newly formed rail hubs situated close to the Chisholm Trail in Kansas. The economic activity created by the Chisholm Trail boosted the economies of many surrounding towns close to the trail and helped build the reputation of Kansas as being a leader in the beef industry; and

WHEREAS, The Chisholm Trail is considered one of the great byways of America, along with the Oregon and Santa Fe Trails, that helped cultivate many iconic images of

the Old West, enhanced the Kansas economy and is a treasured landmark in Kansas history: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate the 150th anniversary of the Chisholm Trail and praise the countless benefits that resulted from the Chisholm Trail's impact on Kansas; and

Be it further resolved: That the Secretary of the Senate shall send 10 enrolled copies of this resolution to Senator Rogers.

On emergency motion of Senator Rogers **SR 1730** was adopted unanimously.

The senate honored guests with a standing ovation.

CHANGE OF REFERENCE

The President withdrew **HB 2278** from the Committee on **Ethics, Elections and Local Government**, and referred the bill to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 14**, as amended; **SB 20**, as amended; **SB 51**, as amended by **H Sub SB 51**.

COMMITTEE OF THE WHOLE

On motion of Senator Denning, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator McGinn in the chair.

On motion of Senator McGinn the following report was adopted:

SB 23; HB 2066 be passed.

HB 2079 be amended by motion of Senator Kerschen; on page 2, in line 5, by striking "statute book" and inserting "Kansas register", and the bill be passed as amended.

HB 2080 be amended by the adoption of the committee amendments, and the bill be passed as amended.

SB 31 be amended by the adoption of the committee amendments, **SB 31** be further amended by motion of Senator Bowers; on page 2, in line 30, by striking all after "housing"; by striking all in line 31; in line 32, by striking all before the semicolon;

On page 3, in line 4, by striking all after "housing"; by striking all in line 5; in line 6, by striking all before the semicolon

SB 31 be further amended by motion of Senator Bowers; on page 1, in line 16, after the stricken material by inserting "or"; in line 17, by striking all after "(B)"; by striking all in lines 18 through 22; in line 23, by striking "(C)"

A motion was made by Senator Fitzgerald to amend **SB 31**.

A substitute motion was offered by Senator Olson to send the bill back to committee. The motion carried and **SB 31** returned to the Committee on **Ethics, Elections and Local Government**.

The committee report on **SB 69** recommending **Sub SB 69** be adopted, be amended by motion of Senator V. Schmidt; on page 1, in line 17, by striking "provider" and inserting "hospital";

On page 2, in line 4, after "of" by inserting "HIPAA"; in line 6, by striking "limitations for" and inserting "periodic review and reporting of reductions in"; in line 16, after "readmitted" by inserting "with a medical condition"; in line 17, by striking "or

for observation"; also in line 17, by striking "72 hours" and inserting "15 days";

On page 6, in line 11, by striking "2018" and inserting "2019"

Sub SB 69 be further amended by motion of Senator V. Schmidt; on page 6, in line 2, after "(g)" by inserting "On and after the effective date of this section," and **Sub SB 69** be passed as amended.

A motion by Senator Pilcher-Cook to amend **Sub SB 69** failed.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

On motion of Senator Longbine the Senate nonconcurred in the House amendments to **SB 14** and requested a conference committee be appointed.

The President appointed Senators Longbine, Billinger and Rogers as a conference committee on the part of the Senate.

On motion of Senator Longbine the Senate nonconcurred in the House amendments to **SB 20** and requested a conference committee be appointed.

The President appointed Senators Longbine, Billinger and Rogers as a conference committee on the part of the Senate.

On motion of Senator V. Schmidt the Senate nonconcurred in the House amendments to **H Sub SB 51** and requested a conference committee be appointed.

The President appointed Senators V. Schmidt, Bollier and Kelly as a conference committee on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **HB 2136**, **HB 2191** be passed.

Committee on **Assessment and Taxation** recommends **SB 203** be passed.

Committee on **Commerce** recommends **HB 2329** be passed.

Committee on **Ethics, Elections and Local Government** recommends **HB 2006**, as amended by House Committee of the Whole, be amended on page 1, in line 28, by striking "a special" and inserting "an";

On page 2, in line 19, by striking "shall" and inserting "in consultation with the board of county commissioners, shall either: (1) Declare the election to be held at the next regularly scheduled odd-numbered year election; or (2)";

Also on page 2, in line 21, before "The" by inserting:

"If the decision is to call a special election,"; and the bill be passed as amended.

Also, **HB 2094** be amended on page 1, in line 8, by striking "or" and inserting a comma; also in line 8, after the third "district" by inserting ", park and recreation district, recreation commission, any other political or taxing subdivision of the state or instrumentality thereof, or any other authority, commission, agency, quasi-municipal corporation created under the laws of the state"; following line 16, by inserting:

"Sec. 2. K.S.A. 2016 Supp. 12-2904 is hereby amended to read as follows: 12-2904. (a) Subject to the limitations of subsection (g), any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state including but not limited to those functions relating to economic development, public improvements, public utilities, police protection, public security, public safety and emergency preparedness, including but not limited to, intelligence, antiterrorism and disaster recovery, libraries, data processing services, educational services, building and related inspection services, flood control and storm water drainage, weather modification,

sewage disposal, refuse disposal, park and recreational programs and facilities, ambulance service, fire protection, the Kansas tort claims act or claims for civil rights violations, may be exercised and enjoyed jointly with any other public agency of this state or with any private agency, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public or private agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.

(b) Any public agency may enter into agreements with one or more public or private agencies for joint or cooperative action pursuant to the provisions of this act. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(c) Any public agency may enter into agreements with Native American Indian tribes for joint or cooperative actions. Such agreements shall be considered to be an interlocal agreement and shall be subject to the procedures and limitations of the interlocal cooperation act.

The provisions of this subsection shall not be construed as authorizing a public agency to enter into a gaming compact pursuant to the interlocal cooperation act.

(d) Any such agreement shall specify the following:

- (1) Its duration.
- (2) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto.
- (3) Its purpose or purposes.
- (4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor.
- (5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.
- (6) Any other necessary and proper matters.

(e) In addition to the requirements of subsection (d), if the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement also shall contain the following:

- (1) Provision for an administrator or a joint board or one of the participating public agencies to be responsible for administering the joint or cooperative undertaking. In the case of a joint board public agencies party to the agreement shall be represented.
- (2) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

(f) No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, such performance may be offered in satisfaction of the obligation or responsibility.

(g) Every agreement made hereunder, except: (1) Agreements between two or more public agencies establishing a council or other organization of local governments for the study of common problems of an area or region and for the promotion of intergovernmental cooperation; and (2) agreements entered into regarding joint or

cooperative action that are subject to the oversight and regulation of a Kansas regulatory agency, prior to and as a condition precedent to its entry into force, shall be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. The attorney general shall approve any agreement submitted hereunder unless the attorney general shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public and private agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within 90 days of its submission shall constitute approval thereof.";

Also on page 1, in line 17, by striking "is" and inserting "and K.S.A. 2016 Supp. 12-2904 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the semicolon by inserting "concerning contracts; dealing with the interlocal cooperation act.,"; also in line 1, after "and" by inserting "K.S.A. 2016 Supp. 12-2904 and"; in line 2, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2137 be amended on page 1, in line 20, by striking "Nothing in this section shall prohibit"; in line 21, by striking all before "as" and inserting "may serve"; in line 22, by striking all after "fighter"; in line 23, by striking all before the period and inserting ", but such commissioner shall not receive any compensation or other remuneration for such volunteer activities"; in line 24, by striking "(a)"; also in line 24, by striking all after "body"; in line 25, by striking all before "as" and inserting "may serve"; in line 26, after "fighter" by inserting ", but such member shall not receive any compensation or other remuneration for such volunteer activities"; by striking all in lines 27 through 31; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2110**, **HB 2118** be passed.

Also, **SB 205** be amended on page 2, in line 25, by striking "period of time" and inserting "member employed as a fireman or policeman, as described in K.S.A. 74-4952(11) and (12), who is"; in line 32, after the period by inserting "If the member does not return to work for the participating employer in the same or a similar position at the conclusion of such leave, except for reasons of death or disability, the period of the leave shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and the employer unless otherwise provided herein. In the case of a decision to voluntarily terminate employment, the period of leave exceeding 365 days shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and the employer.";

On page 5, in line 2, after the period by inserting "If the member does not return to work for the participating employer in the same or a similar position at the conclusion of such leave, except for reasons of death or disability, the period of the leave shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and the employer unless otherwise provided herein. In the case of a decision to voluntarily terminate employment, the period of leave exceeding 365 days shall be removed from service credit, and the employer and employee contributions for such period of leave shall be

reimbursed by the system to the employee and the employer."; and the bill be passed as amended.

HB 2043 be amended on page 3, in line 36, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2067, as amended by House Committee, be amended on page 3, following line 12, by inserting:

"(5) A person applying for a resident insurance agent license who has been fingerprinted and has submitted to a state and national criminal history record check within the past 12 months in connection with the successful issuance or renewal of any other state-issued license may submit proof of such good standing to the commissioner in lieu of submitting to the fingerprinting and criminal history record checks described in subsections (i)(1) and (i)(2)."; and the bill be passed as amended.

HB 2111, as amended by House Committee, be amended on page 3, in line 39, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2153**, as amended by House Committee, be amended on page 4, in line 4, after "(f)" by inserting "Beginning on January 8, 2018, the director of the budget shall prepare a report listing the unencumbered balance of each fund in subsection (b) on June 30 of the previous fiscal year and January 1 of the current fiscal year. Such report shall be delivered to the secretary of the senate and the chief clerk of the house of representatives on or before the first day of the regular legislative session each year.

(g) "; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2095**, as amended by House Committee, (Corrected), be amended on page 1, in line 33, by striking "and"; in line 36, after "snow" by inserting "; and

(8) the vehicle, when operating in excess of 85,500 pounds, shall only carry agricultural inputs, farm supplies, biofuels, feed, raw or processed agricultural commodities, livestock, raw meat products intended by the shipper for further processing or farm products. The provisions of this paragraph shall be construed liberally so as to effectuate the purposes thereof"; and the bill be passed as amended.

Also, **HB 2203**, as amended by House Committee, be amended on page 1, following line 32, by inserting:

"New Sec. 3. The portion of interstate highway 70 from the junction with highway K-15 then west to the junction with United States highway 81 is hereby designated as the John Carlin highway. Upon compliance with K.S.A. 2016 Supp. 68-10,114, and amendments thereto, the secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the John Carlin highway.

Sec. 4. K.S.A. 2016 Supp. 68-1009 is hereby amended to read as follows: 68-1009. (a) The portion of United States highway ~~No. 40~~ traversing this state where it crosses the Missouri-Kansas border on the east to the point where it leaves the state on the west at the Kansas-Colorado line, be and it is hereby designated as the official east-west Blue Star memorial highway in the state of Kansas.

(b) If the state of Missouri designates a portion of interstate highway 70 as the Truman/Eisenhower Presidential highway, or something substantially similar, then the portion of United States highway ~~No. 40~~ from where it crosses the Missouri-Kansas

border, to the west city limits of Topeka, and then from the junction of ~~highway K-15~~ United States highway 81 with United States highway ~~No. 40~~, then west on United States highway ~~No. 40~~ to the point where it leaves the state at the Kansas-Colorado line, shall be designated as the official east-west Blue Star memorial highway in the state of Kansas.";

Also on page 1, in line 33, after "Supp." by inserting "68-1009 and"; also in line 33, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page one, the title, in line 1, after "ACT" by inserting "concerning roads and highways;"; in line 2, after "highway" by inserting "and a portion of interstate 70 as the John Carlin highway"; also in line 2, after "Supp." by inserting "68-1009 and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

On motion of Senator Denning, the Senate adjourned until 2:30 p.m., Thursday, March 23, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

