

Journal of the Senate

SIXTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, January 30, 2024, 2:30 p.m.

The Senate was called to order by President Ty Masterson.

The roll was called with 39 senators present.

Senator Longbine was excused.

The President introduced Doug Henkle who delivered the Invocation:

Thank You for bringing us together here this afternoon. Remind us we have come together here, in this 2024 legislative session, in this chamber, to serve the people of Kansas who elected us. I lift up President Masterson, Vice-President Wilborn, Majority Leader Alley and Minority Leader Sykes to You. Give them Your direction as they lead this chamber.

I pray for Your peace in this chamber and in this building. Cause us to think before we speak. Before our lips start moving, cause us to pause and think about our words. Remind us to never think our words will be overlooked and easily erased. Cause us to focus on the issues at hand. Cause us to argue our positions, to present reasons for or against the matter at hand, in an honorable way to the best of our ability.

Keep us from quarrels and angry disputes, injuring otherwise friendly relations. Remind us that death words destroy, hurt, create humiliating feelings. Life words build and increase strength of character. They center on the truth, and therefore they set the other person free. Cause us to ask ourselves: Are our words accurate or exaggerated? Necessary or needless? Wholesome or vile? Cause us, as Your Word admonishes us to do, to speak the truth in love. Cause us not to think more of ourselves than we ought.

At the end of the day, cause us to reflect not on what we gained or lost personally, but by what we accomplished for the people of Kansas in this legislative body called the Kansas Senate. In Jesus' Name, Amen.

The Pledge of Allegiance was led by President Masterson.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were introduced and read by title:

SB 422, AN ACT concerning electric public utilities; relating to net metering; increasing the system-wide capacity limit for facilities subject to net metering; requiring such facilities to be appropriately sized based on the customer's expected load; establishing requirements for exporting power to a utility from a facility subject to net metering; amending K.S.A. 66-1264, 66-1265, 66-1266 and 66-1267 and repealing the existing sections, by Committee on Utilities.

SB 423, AN ACT concerning insurance; reducing the number of board members appointed by the commissioner on certain insurance-related governing boards and the frequency of the meetings of the committee on surety bonds and insurance; amending K.S.A. 40-2102, 40-2109, 40-3116, 40-3413, 65-34,126 and 75-4101 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 424, AN ACT concerning the Kansas plane coordinate system act; providing for geographic positions or locations of points within the state of Kansas; amending K.S.A. 58-20a01, 58-20a02, 58-20a03, 58-20a04, 58-20a05 and 58-20a07 and repealing the existing sections; also repealing K.S.A. 58-20a06, by Committee on Federal and State Affairs.

SB 425, AN ACT concerning children and families; relating to orders of child support; providing for child support for unborn children from the date of conception; amending K.S.A. 20-165, 23-2205 and 23-3001 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 426, AN ACT concerning traffic regulations; relating to unlawful passing of stationary authorized emergency vehicle; increasing penalties for certain violations; creating a crime for injuring or causing death of certain authorized emergency vehicle operators and providing a penalty therefor; amending K.S.A. 8-1530, 8-2116 and 8-2118 and repealing the existing sections, by Committee on Transportation.

SB 427, AN ACT concerning education; relating to boards of education; requiring school districts to publicly list the names and email addresses of current board members; authorizing local school board members to add new items to board meeting discussions, ask questions or engage in discussion with members of the public and access school property; authorizing members of the public to address school boards at board meetings; authorizing payment of annual dues to any not-for-profit organization that provides services to member school districts; amending K.S.A. 72-1145 and 72-1416 and K.S.A. 2023 Supp. 72-1138 and repealing the existing sections, by Committee on Education.

SB 428, AN ACT concerning education; relating to school districts; boards of education; requiring attendance center needs assessments to be conducted by the board and include input from board members, teachers, school site councils and administrators; requiring that board members receive certain state assessment data; identifying allocations of moneys in the district budget and budget summary; amending K.S.A. 2023 Supp. 72-1163 and repealing the existing section, by Committee on Education.

SB 429, AN ACT concerning taxation; relating to sales and compensating use tax; reducing the state rate of tax on sales of food and food ingredients; amending K.S.A. 2023 Supp. 79-3603, 79-3603d, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, by Committee on Assessment and Taxation.

SENATE CONCURRENT RESOLUTION **No. 1616**

By Senator Pyle

A PROPOSITION to amend section 5 of article 3 of the constitution of the state of Kansas; relating to the selection of supreme court justices; allowing the governor to appoint supreme court justices, subject to senate confirmation; changing the membership of the supreme court nominating commission.

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 5 of article 3 of the constitution of the state of Kansas is hereby amended to read as follows:

"§ 5. Selection of justices of the supreme court. (a) Any vacancy occurring in the office of any justice of the supreme court and any position to be open ~~thereon~~ *on the supreme court* as a result of enlargement of the court, or the retirement or failure of an incumbent to file ~~his~~ *such justice's* declaration of candidacy to ~~succeed himself~~ *be retained in office* as hereinafter required, or failure of a justice to be elected to ~~succeed himself~~ *be retained in office*, shall be filled by appointment by the governor, *with the consent of the senate*, of one of three persons possessing the qualifications of office who shall be nominated and whose names shall be submitted to the governor by the supreme court nominating commission established as hereinafter provided.

(b) In event of the failure of the governor to make the appointment within ~~sixty~~ 60 days from the time the names of the nominees are submitted to ~~him~~ *the governor*, the chief justice of the supreme court, *with the consent of the senate*, shall make the appointment from such nominees.

(c) *No person appointed pursuant to this section shall assume the office of justice of the supreme court until the senate, by an affirmative vote of the majority of all members of the senate then elected or appointed and qualified, consents to such appointment. The senate shall vote to consent to any such appointment not later than 60 days after such appointment is received by the senate. If the senate is not in session and will not be in session within the 60-day time limitation, the senate shall vote to consent to any such appointment not later than 20 days after the senate begins its next session. In the event a majority of the senate does not vote to consent to the appointment, the governor, within 60 days after the senate vote on the previous appointee, shall appoint another person possessing the qualifications of office, and such subsequent appointment shall be considered by the senate using the same procedure as provided in this section. The same appointment and consent procedure shall be followed until a valid appointment has been made. No person who has been previously appointed but did not receive the consent of the senate shall be appointed again for the same vacancy. If the senate fails to vote on an appointment within the time limitation imposed by this subsection, the senate shall be deemed to have given consent to such appointment.*

(d) (1) Each justice of the supreme court appointed and consented to pursuant to ~~provisions of subsection (a)~~ of this section shall hold office for an initial term ending on the second Monday in January following the first general election that occurs after the expiration of ~~twelve~~ 12 months

in office.

(2) Not less than ~~sixty~~ 60 days prior to the holding of the general election next preceding the expiration of ~~his~~ *the* term of office, any justice of the supreme court may file in the office of the secretary of state a declaration of candidacy for ~~election to succeed himself~~ *retention in office*. If a declaration is not ~~so~~ filed *as provided in this section*, the position held by such justice shall be open from the expiration of ~~his~~ *such justice's* term of office. If such declaration is filed, ~~his~~ *such justice's* name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows:

"Shall _____

(Here insert name of justice.)

(Here insert the title of the court.)

be retained in office?"

(3) If a majority of those voting on the question vote against retaining ~~him~~ *the justice* in office, the position ~~or office which he~~ *that the justice* holds shall be open upon the expiration of ~~his~~ *the justice's* term of office; Otherwise ~~he~~ *the justice* shall, unless removed for cause, remain in office for the regular term of six years from the second Monday in January following such election. At the expiration of each term ~~he~~ *the justice* shall, unless by law ~~he~~ *the justice* is compelled to retire, be eligible for retention in office by election in the manner prescribed in this section.

~~(d)~~(e) (1) A ~~nonpartisan~~ nominating commission whose duty it shall be to nominate and submit to the governor the names of persons for appointment to fill vacancies in the office of any justice of the supreme court is hereby established, and shall be known as the "supreme court nominating commission." ~~Said~~ *Such* commission shall be organized as hereinafter provided.

~~(e)~~(2) The supreme court nominating commission shall be composed as follows: One member, who shall be ~~chairman, chosen from among their number by the members of the bar who are residents of and licensed in Kansas; one member from each congressional district chosen from among their number by the resident members of the bar in each such district; and one member, who is not a lawyer, from each congressional district~~ *chairperson*, appointed by the governor ~~from among the residents of each such district; one member appointed by the chief justice; the lieutenant governor; the secretary of state; the attorney general; the president of the senate; and the speaker of the house of representatives.~~

(f) The terms of office, ~~the procedure for selection and certification of~~ the members of the commission and provision for their compensation or expenses shall be as provided by the legislature.

~~(g)~~ No member of the supreme court nominating commission shall,

~~while he is a member, hold any other public office by appointment or any official position in a political party or for six months thereafter be eligible for nomination for the office of justice of the supreme court. The commission may act only by the concurrence of a majority of its members."~~

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 change the procedure for selecting supreme court justices by requiring senate consent and to change the membership of the supreme court nominating commission. The members of the commission would be changed to: One member, who shall be chairperson, appointed by the governor; one member appointed by the chief justice; the lieutenant governor; the secretary of state; the attorney general; the president of the senate; and the speaker of the house of representatives. The gubernatorial appointments to the commission would be reduced from four members to one member. The members of the bar would no longer elect members of the commission. The commission would continue to nominate three persons for appointment by the governor. The governor would appoint one of such persons to the office of justice of the supreme court, and such person's appointment is subject to the consent of the senate. A procedure is established whereby senate consent would occur within 60 days of receiving the appointment. If the senate does not consent by a majority vote, the governor would then select a different appointment that would again go to the senate for consent. The same appointment and consent procedure would be followed until a valid appointment is made. If the senate fails to vote on an appointment within 60 days, it will be considered that the senate has consented to the appointment. Supreme court justices would continue to hold six-year terms and be subject to retention elections.

"A vote for this proposition would add a senate confirmation requirement to the current system in which justices of the supreme court are appointed by the governor from a list of three individuals submitted by the supreme court nominating commission. The members of the commission would be changed to: One member, who shall be chairperson, appointed by the governor; one member appointed by the chief justice; the lieutenant governor; the secretary of state; the attorney general; the president of the senate; and the speaker of the house of representatives.

"A vote against this proposition would continue in effect the current system in which justices of the supreme court are appointed by the governor from a list of three individuals submitted by the supreme court nominating commission, without senate confirmation. The members of the commission would continue to be: One member, who shall be chairperson, chosen from among their number by the members of the bar who are residents of and licensed in Kansas; one member from each congressional district chosen from among their number by the resident

members of the bar in each such district; and one member, who is not a lawyer, from each congressional district, appointed by the governor from among the residents of each such district."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate, 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 a special election which is hereby called on March 19, 2024, pursuant to section 1 of article 14 of the constitution of the state of Kansas, to be held in conjunction with the primary election held on such date.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were referred to Committees as indicated:

Agriculture and Natural Resources: **SB 417**.

Assessment and Taxation: **SB 421**.

Education: **SB 407**.

Federal and State Affairs: **SB 409, SB 411**.

Financial Institutions and Insurance: **SB 406**.

Judiciary: **SB 412, SB 413, SB 414, SB 415, SB 416, SB 418, SB 419, SB 420**.

Transportation: **SB 408, SB 410**.

Ways and Means: **SCR 1615**.

REFERENCE OF SENATE RESOLUTIONS

Federal and State Affairs: **SR 1733**

COMMUNICATIONS FROM STATE OFFICERS

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

2023 Annual Report, Kansas Forest Service - Kansas State University

CONSIDERATION OF ORIGINAL MOTIONS

Citing Senate Rule 11, Senator Olson motioned to withdraw **SCR 1615** from the Committee on **Ways and Means** and advance the resolution to the Calendar under the heading of **General Orders**, below the line.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 366** be amended on page 5, in line 6, by striking "a" and inserting "an official"; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 172**, be passed.

On motion of Senator Alley, the Senate adjourned until 2:30 p.m., Wednesday, January 31, 2024.

JANUARY 30, 2024

1457

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*
COREY CARNAHAN, *Secretary of the Senate.*

