

Journal of the Senate

THIRTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, February 22, 2012, 2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.
Invocation by Reverend Fred S. Hollomon:

Heavenly Father,

No man we know is perfect,
Including Washington.
But we must thank You, Lord,
For the good things he has done.

He gave his soldiers Chaplains
And attendance was required
At every worship service
Which he specified.

Soldiers could not gamble
Nor get drunk or curse;
And if they disobeyed, O God,
Things would get much worse!

He encouraged fasting,
Thanksgiving and also prayer,
And the soldiers who refused
No doubt were very rare.

He added, "So help me, God"
To the inaugural oath,
No doubt hoping it would help
Each President's spiritual growth.

Since today is His birthday, Lord,
Once more we pay respect
To the Father of our Country,
Whom we should not neglect.

I pray in the Name of Jesus Christ, AMEN

The pledge of allegiance was led by President Stephen Morris.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

SB 443, AN ACT concerning addiction counselors; amending K.S.A. 59-29b54, 59-29b61 and 65-4016 and K.S.A. 2011 Supp. 21-6824, 38-1608, 38-2213, 38-2223, 38-2310, 39-1402, 39-1431, 59-29b46, 65-4012 and 65-4024a and repealing the existing sections, by Committee on Federal and State Affairs.

SB 444, AN ACT concerning individuals with disabilities; relating to employment and competitive bids for state contracts; amending K.S.A. 2011 Supp. 75-3739 and 75-3740 and repealing the existing sections, by Committee on Ways and Means.

SENATE CONCURRENT RESOLUTION No. **SCR 1613**—

By Committee on Federal and State Affairs

A CONCURRENT RESOLUTION outlining the principles of the State of Kansas regarding immigration reform policies.

WHEREAS, Failure to update our federal immigration system separates and destabilizes Kansas communities, and creates uncertainty, inefficiency and an uneven playing field for Kansas' citizens, businesses and economy; and

WHEREAS, The forced separation of working parents from their children weakens families and damages society; and

WHEREAS, Failure to address the system where it can be fixed – at the federal level – has left all states searching for solutions in ways that have been costly and divisive: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Legislature recommends the following basic principles as a guide for state and federal policy on immigration:

1. Immigration is a federal policy issue between the United States government and other countries – not Kansas and other countries. The Legislature urges the Kansas congressional delegation to take action to create a workable immigration system that upholds our values, our economic needs and moves us forward;

2. the Legislature respects the rule of law and supports law enforcement's professional judgment and discretion. Local law enforcement resources should focus on criminal activities, not civil violations of federal code;

3. strong families are the foundation of successful communities. The Legislature opposes policies that unnecessarily separate families. The Legislature champions policies that support families and improve the health, education and well-being of all Kansas children;

4. the Legislature acknowledges the important economic role immigrant Kansans play as workers, entrepreneurs and taxpayers. The immigration policies of Kansas must affirm its reputation as a welcoming and business-friendly state; and

5. immigration is an important part of our past and our future. As in the past, immigrants are totally integrated into communities across Kansas. We must adopt a humane approach to this reality, reflecting our values, history and spirit of inclusion and cooperation. The way we treat immigrants says a lot about our society being fair and

just. Kansas should always be a place that welcomes people of goodwill. Our communities and our future will be best served by doing so; and

Be it further resolved: That the Legislature urgently calls upon the Kansas congressional delegation and the United States Congress to enact thorough, common sense, workable and humane reforms that reflect the realities of our country's workforce needs and represent America's values at its best; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate and each member of the Kansas congressional delegation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

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

Assessment and Taxation: **SB 442**.

Commerce: **SB 438**.

Financial Institutions and Insurance: **SB 439**.

Judiciary: **HB 2464, HB 2468, HB 2473, HB 2569, HB 2613, HCR 5032**.

Transportation: **SB 441; HB 2432, HB 2612**.

Utilities: **HB 2708**.

Ways and Means: **SB 440**.

CHANGE OF REFERENCE

The President withdrew **SB 413** from the Committee on **Ways and Means**, and referred the bill to the Committee on **Commerce**.

The President withdrew **SB 361, SB 401, SB 410** from the Committee on **Ways and Means**, and rereferred the bills to the Committee on **Education**.

The President withdrew **SB 423** from the Committee on **Ways and Means**, and rereferred the bill to the Committee on **Judiciary**.

The President withdrew **SB 339, SB 411** from the Committee on **Ways and Means**, and rereferred the bills to the Committee on **Assessment and Taxation**.

The President withdrew **SB 327, SB 328** from the Committee on **Ways and Means**, and rereferred the bills to the Committee on **Public Health and Welfare**.

The President withdrew **SB 250** from the Committee on **Financial Institutions and Insurance**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 412, SB 414** from the Committee on **Agriculture**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 317** from the Committee on **Assessment and Taxation**, and referred the bill to the Committee on **Ways and Means**.

The President withdrew **SB 271, SB 314, SB 380, SB 391, SB 405** from the Committee on **Natural Resources**, and referred the bills to the Committee on **Ways and Means**.

The President withdrew **SB 398** from the Committee on **Utilities**, and referred the bill to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of **Substitute HB 2295; HB 2414, HB 2416, HB 2429, HB 2444, HB 2465, HB 2485, HB 2494, HB 2517, HB 2520, HB 2548; Substitute HB 2555; HB 2563, HB 2568, HB 2631; Substitute HB 2659; HB 2660.**

Announcing passage of **SB 289.**

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute HB 2295; HB 2414, HB 2416, HB 2429, HB 2444, HB 2465, HB 2485, HB 2494, HB 2517, HB 2520, HB 2548; Substitute HB 2555; HB 2563, HB 2568, HB 2631; Substitute HB 2659; HB 2660 were thereupon introduced and read by title.

REMOVE FROM CONSENT CALENDAR

An objection having been made to **HB 2453** appearing on the Consent Calendar, the President directed the bill be removed and placed on the calendar under the heading of General Orders.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Lynn, Merrick and Olson introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1824—

A RESOLUTION congratulating the Olathe South High School football team on winning the 2011 class 6A state championship.

WHEREAS, Olathe South High School won the 2011 class 6A state championship with a 41-37 win against defending champion Wichita Heights on November 26, 2011; and

WHEREAS, The Olathe South Falcons state football championship was the first in the program's 30-year history; and

WHEREAS, Olathe South trailed 34-27 in the fourth quarter, but forged a 34-34 tie with just under eight minutes remaining, but Wichita Heights retook the lead with a field goal with 3:16 to go; and

WHEREAS, Quarterback Frankie Seurer, Jr. completed a 24-yard pass to Matt Elliott on fourth and 10 to keep the Falcon drive alive. Then two plays later and in the final minute of the game, Olathe South senior fullback Jordan Ward scored the game-winning touchdown on a 42-yard run; and

WHEREAS, At the beginning of the season, the Falcons football team committed itself to the "T.O.T.A.L." season, which means taking ourselves to another level. They did just that by winning the state championship: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Olathe South Falcons and head coach Jeff Gourley on winning the 2011 class 6A state football championship. We wish the team members and coaches continued success in the future; and

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

On emergency motion of Senator Lynn **SR 1824** was adopted unanimously.

Senator Lynn congratulated the Olathe South High School football team on winning the 2011 class 6A state championship. The Olathe South High School football team members were introduced as follows: Head Coach Jeff Gourley, Scott Gourley, Jared Douglas, Greg Fry, Taylor Sheffield, Remington Whitley, Matt Elliott, Frankie Seurer and Zack Sheffield. The Senate recognized their achievement with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 371** be amended on page 1, by striking all in lines 5 through 26;

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "sales" by inserting "and use"; and the bill be passed as amended.

Also, **SB 421** be amended on page 1, in line 7, after "(a)" by inserting "(1) Except as provided in subsection (a)(2)," in line 9, by striking "(1)"; in line 10, after "(A)" by inserting "(i)"; also in line 10, by striking "2012" and inserting "1995"; in line 11, by striking "(B)" and inserting "(ii)"; in line 13, by striking "(2)" and inserting "(B)"; also in line 13, by striking "2013" and inserting "1996"; also in line 13, by striking "(A)" and inserting "(i)"; in line 14, by striking "\$18" and inserting "\$12"; in line 15, by striking "\$36" and inserting "\$24"; in line 16, by striking "(a)(1)(B) and (a)(1)(C); (B)" and inserting "(a)(1)(B)(ii) and (a)(1)(B)(iii); (ii)"; in line 17, by striking "1997" and inserting "1980"; in line 18, by striking "1997" and inserting "1980"; in line 19, by striking "(C)" and inserting "(iii)"; also in line 19, by striking "2012" and inserting "1995"; in line 20, by striking "2013" and inserting "1996"; in line 22, by striking "2012" and inserting "1995"; in line 23, by striking "2013" and inserting "1996"; following line 25, by inserting:

"(2) Commencing in 2013, and each year thereafter, the tax on any motorcycle shall not be less than \$18 and the tax on any other motor vehicle shall not be less than \$36, unless in 2012 such tax was already less than such minimum tax, and in any such case the provisions of subsection (a)(1) shall remain applicable to any such motorcycle or other motor vehicle.";

Also on page 1, in line 35, by striking all before "in"; and inserting "and commencing"; in line 36, before "thereafter" by inserting "each year"; also in line 36, by striking "and"; also in line 36, by striking "five" and inserting "three"; also in line 36, by striking "six" and inserting "four";

On page 2, in line 1, by striking "10" and inserting "six"; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 417** be passed.

Committee on **Judiciary** recommends **SB 366** be amended on page 2, in line 5, by striking "The garnishee shall" and inserting "The court shall direct the garnishee to"; by inserting at the end of line 17, "The garnishee may release the funds, credits or indebtedness that have been attached pursuant to the order of garnishment if no order to pay the judgment creditor has been received within 60 days following the receipt of the answer of the garnishee by the judgment creditor.";

On page 3, in line 12, by striking "Unless otherwise ordered by the court, the garnishee shall" and inserting "The court shall direct the garnishee to"; by inserting at the end of line 24, "The garnishee may release the funds, credits or indebtedness that have been attached pursuant to the order of garnishment if no order to pay the judgment

creditor has been received within 60 days following the receipt of the answer of the garnishee by the judgment creditor."; and the bill be passed as amended.

Committee on **Local Government** recommends **HB 2546**, as amended by House Committee, be passed.

Committee on **Public Health and Welfare** recommends **SB 407** be amended on page 1, in line 10, by striking "The" and inserting "In those patients whose mammograms demonstrate that they have heterogeneously dense or extremely dense breast tissue, the"; by striking all in lines 12 through 23; and inserting ""Your mammogram demonstrates that you have dense breast tissue. Mammography has known limitations, and in women who have dense breast tissue, some abnormalities may be hidden. A report of your mammography results, which includes information about your breast tissue density, has been sent to your physician. This statement is intended to raise your awareness and promote discussion with your physician regarding your test results. Depending on your individual risk factors, your physician might recommend additional tests. You should contact your physician if you have any questions or concerns regarding your report.""; and the bill be passed as amended.

Committee on **Transportation** recommends **SR 1806** be amended on page 1, in line 1, by striking "repeal 23 U.S.C."; in line 2, by striking "§ 127(d) concerning" and inserting "give Kansas an exemption to"; in line 3, by striking "and weight"; in line 7, by striking "and weight"; in line 8, by striking "weights and"; in line 15, by striking "and"; in line 16, by striking " weight";

Also on page 1, by striking all in lines 21 through 25 and inserting "WHEREAS, Nebraska has received a similar exemption to allow custom harvesters to transport their machinery; and";

Also on page 1, in line 26, by striking "and weight"; in line 30, by striking "repeal 23 U.S.C. § 127(d) and eliminate" and inserting "give Kansas an exemption to"; in line 32, by striking "and weight"; and the resolution be adopted as amended.

Committee on **Ways and Means** recommends **SB 353** be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator V. Schmidt the following report was adopted:

Recommended **SB 313, SB 334, SB 374; HB 2273, HB 2441** be passed.

The committee report on **SB 148** recommending a **Sub SB 148** be adopted, and the substitute bill be passed.

The committee report on **SB 393** recommending a **Sub SB 393** be adopted, and the substitute bill be passed.

Senator Abrams moved to amend **Sub SB 393** on page 3, following line 13, by inserting:

"New Sec. 5. (a) Except as provided in subsection (d), no school district, nor the department of education nor the state board of education shall expend any moneys to implement the common core standards, or any portion thereof.

(b) The division of post audit shall conduct a feasibility study of a cost analysis of the implementation of the common core standards in Kansas. A report on the results of

the feasibility study shall be prepared and submitted to the legislative post audit committee on or before September 30, 2012.

(c) Upon the request of the legislative post audit committee, the division of post audit shall conduct a cost analysis of the implementation of the common core standards in Kansas. The cost analysis shall determine what additional expenditures schools, the department of education and the state board of education will incur in implementing the common core standards over one, three, five and 10 year periods from the date of implementation. The cost analysis shall be conducted in accordance with article 11 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto.

(d) Provided a cost analysis is requested by the legislative post audit committee pursuant to subsection (c), the final cost analysis report shall be submitted to the governor, the legislature and the state board of education on or before January 31, 2013. Upon receipt of the final cost analysis, the state board of education shall post the cost analysis on the main website of the department of education. When all of the requirements of this subsection are satisfied, the state board of education may proceed with the implementation of the common core standards, and the provisions of subsection (a) shall have no force and effect.

(e) As used in this section, "common core standards" means the set of educational curriculum standards for grades kindergarten through 12 established by the common core state standards initiative.";

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "school districts; relating to"; also in line 1, by striking "secondary"; in line 2, by striking "students" and inserting "implementation of common core standards" and the motion failed.

A ruling of the chair was requested as to the germaneness of the amendment to the bill. The Chair ruled the amendment not germane, the chair was challenged.

Upon the showing of five hands, a roll call vote was requested.

On roll call, the vote was: Yeas 22; Nays 18; Present and Passing 0; Absent or Not Voting 0.

Yeas: Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Longbine, Marshall, McGinn, Morris, Owens, Reitz, A. Schmidt, V. Schmidt, Schodorf, Teichman, Umbarger, Vratil.

Nays: Abrams, Apple, Bruce, Donovan, Kelsey, King, Love, Lynn, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

The ruling of the Chair was sustained and **Sub SB 393** be passed.

EXPLANTION OF VOTE

MR. PRESIDENT: Today was a sad day on the Senate floor. The rules were abused to stifle debate. The Senate should pride itself on applying Senate rules fairly and in an unbiased manner, especially when it comes to germaneness. This amendment dealt with educational curriculum and funding and the underlying bill also dealt with educational curriculum and funding. Clearly the amendment was germane. I voted NO. The people of Kansas deserve better. – SUSAN WAGLE.

Senators Abrams, Bruce, Pilcher-Cook, Kelsey, Love, Lynn, Masterson, Olson, Ostmeyer, Petersen, Pyle, Steineger, Taddiken concur with the "Explanation of Vote" offered by Senator Wagle on **SB 393**.

SB 69, SB 269, SB 276, SB 277, SB 288, SB 301, SB 345, SB 358, SB 384, SB 387, SB 419, be amended by adoption of the committee amendments, and the bills be passed as amended.

SR 1805 be amended by the adoption of the committee amendments, and the resolution be adopted as amended.

SB 262 be amended by the adoption of the committee amendments, and further amended by motion of Senator Faust-Goudeau, on page 1, in line 7, by striking "may" and inserting "shall" and **SB 262** be passed as further amended.

SB 302 be amended by the adoption of the committee amendments, and further amended by motion of Senator Taddiken, on page 2, in line 33, by striking "for all departments"; in line 34, by striking "and custom exempt"; also in line 34, by striking "and shall specify lunch"; in line 35, by striking "periods" and **SB 302** be passed as further amended.

SB 342 be amended by adoption of the committee amendments, further amended by motion of Senator Petersen: on page 3, in line 9, after "corridor" by inserting "by more than five miles per hour"; in line 16, after "corridor" by inserting "by more than five miles per hour"; following line 18, by inserting:

"Sec. 6. K.S.A. 2011 Supp. 8-1560d is hereby amended to read as follows: 8-1560d. (a) Except as provided by subsection (b), convictions for violating a maximum posted speed limit of 55 miles per hour or more but not exceeding 75 miles per hour, by not more than 10 miles per hour in excess of such maximum speed limit, or a maximum posted speed limit of 30 miles per hour or more but not exceeding 54 miles per hour, by not more than six miles per hour in excess of such maximum speed limit, shall not be reported by the division and shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(c)(7) of K.S.A. 40-277, and amendments thereto.

(b) Convictions for violating a maximum speed limit within a safety corridor by not more than five miles per hour shall not be reported by the division and shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy under the provisions of subsection (4)(c)(7) of K.S.A. 40-277, and amendments thereto."

And by renumbering sections accordingly;

On page 13, in line 20, after "8-1560c," by inserting "8-1560d,";

On page 1, in the title, in line 3, after "8-1560c," by inserting "8-1560d," and **SB 342** be passed as further amended.

A second motion by Senator Petersen to amend **SB 342** failed and the following amendment was rejected: on page 1, in line 7, after "1." by inserting "(a)";

Also on page 1, following line 8, by inserting:

"(b) The provisions of this act shall expire on July 1, 2015.";

On page 3, in line 3, after "(a)" by inserting "(1)"; in line 8, by striking the comma and inserting a period; also in line 8, before "except" by inserting "(2)"; in line 11, after "(b)" by inserting "(1)"; in line 15, by striking the second comma and inserting a period; also in line 15, before "except" by inserting "(2)"; following line 18, by inserting:

"(c) The provisions of subsections (a)(2) and (b)(2) shall expire on July 1, 2015.

Sec. 6. K.S.A. 2011 Supp. 8-1560d is hereby amended to read as follows: 8-1560d. (a) Convictions for violating a maximum posted speed limit of 55 miles per hour or

more but not exceeding 75 miles per hour, by not more than 10 miles per hour in excess of such maximum speed limit, or a maximum posted speed limit of 30 miles per hour or more but not exceeding 54 miles per hour, by not more than six miles per hour in excess of such maximum speed limit, shall not be reported by the division and shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(c)(7) of K.S.A. 40-277, and amendments thereto.

(b) Convictions for violating a maximum speed limit within a safety corridor shall be reported by the division and may be considered by an insurance company in determining the rate charged for any automobile liability insurance policy under the provisions of subsection (4)(c)(7) of K.S.A. 40-277, and amendments thereto. The provisions of this subsections shall expire on July 1, 2015.;

And by renumbering sections accordingly;

On page 12, in line 39, after the period by inserting "The provisions of this subsection shall expire on July 1, 2015."; in line 41, after "(a)" by inserting "Except as provided by subsection (c)";

On page 13, following line 19, by inserting:

"(c) The credit required by subsection (a)(11) of this section shall expire on July 1, 2015.";

Also on page 13, in line 20, after "8-1560c," by inserting "8-1560d,";

On page 1, in the title, in line 1, after "8-1560c," by inserting "8-1560d,"

HB 2459 be amended by the adoption of the committee amendments, be further amended by motion of Senator Umbarger, on page 2, in line 3, by striking "training" and inserting "testing" and **HB 2459** be passed as further amended.

On motion of Senator Emler, the Senate adjourned until 10:00 a.m., Thursday, February 23, 2012.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

