

Journal of the Senate

THIRTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, January 31, 2013, 2:30 p.m.

The Senate was called to order by President Susan Wagle.
The roll was called with thirty-eight senators present.
Senators Knox and Ostmeyer were excused.
Invocation by Father Don Davidson:

Heavenly Father I wish to give thanks for our soles that give us comfort and stability. With all the hustle of this place, they may indeed become worn and maybe work is needed to keep them in shape. The worst of heels cannot take the place of a faithful sole. Dear Lord help us to be cobbled together in your name and please bless our shoes and the people who wear them. Amen

POINT OF PERSONAL PRIVILEGE

Senator Love rose on a Point of Personal Privilege to recognize his former cross country coach, Darrel Bryant and wife Jean. He reiterated his many accomplishments, winning many state titles. The Senators recognized them with a standing ovation.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

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

SB 103, AN ACT concerning school districts; relating to the definition of at-risk pupil; amending K.S.A. 2012 Supp. 72-6407 and repealing the existing section, by Committee on Education.

SB 104, AN ACT creating the Kansas children's internet protection act, by Senator Abrams.

SB 105, AN ACT concerning school districts; relating to policies against bullying; amending K.S.A. 2012 Supp. 72-8256 and repealing the existing section, by Committee on Education.

SB 106, AN ACT concerning income taxation; relating to credits; expenses for household and dependent care services necessary for gainful employment, by Committee on Assessment and Taxation.

SB 107, AN ACT concerning public health and social services; relating to powers, duties and functions transferred to Kansas department for aging and disability services from Kansas department for children and families and the department of health and environment; updating references and corresponding changes due to Executive Reorganization Order No. 41, published in chapter 1895 of the 2012 Session Laws of

Kansas; amending K.S.A. 12-736, 12-4808, 16-304, 16-311, 17-2264, 17-5829, 20-319, 22-3723, 22a-243, 22a-244, 38-134, 38-320, 38-1808, 38-1817, 38-1819, 38-1820, 38-1821, 38-1822, 38-1901, 38-2002, 39-110, 39-111, 39-702, 39-708c, 39-708d, 39-711a, 39-718b, 39-719e, 39-740, 39-744, 39-751, 39-753, 39-755, 39-758, 39-782, 39-783, 39-786, 39-787, 39-788, 39-7,100, 39-7,100a, 39-7,102, 39-7,103, 39-7,104, 39-7,105, 39-7,109, 39-7,122, 39-7,123, 39-7,125, 39-7,127, 39-7,128, 39-7,130, 39-7,131, 39-7,139, 39-960, 39-1208, 39-1209, 39-1302, 39-1410, 39-1434, 39-1435, 39-1501, 39-1602, 39-1603, 39-1604, 39-1612, 39-1613, 39-1703, 39-1704, 39-1804, 40-2d02, 40-2256, 40-22a05, 40-3227, 41-1126, 59-2006, 59-2006b, 59-2006c, 59-2130, 59-2135, 59-2801, 59-2803, 59-2963, 59-2968, 59-2981, 59-29b57, 59-29b60, 59-29b63, 59-29b78, 59-29b81, 59-3065, 59-3067, 59-3070, 59-3080, 59-3094, 60-2204, 60-2310, 60-2401, 65-116i, 65-116j, 65-116k, 65-116l, 65-116m, 65-1,108, 65-1,120, 65-1,159, 65-1,162, 65-1,165, 65-507, 65-513, 65-2422b, 65-3507, 65-4432, 65-5101, 65-5115, 65-5902, 72-1046, 72-3608, 72-4311, 72-4314a, 72-4316, 72-8239, 72-8243, 72-89a02, 72-89b03, 74-5502, 74-5505, 74-6901, 74-6904, 74-7801, 75-2935c, 75-3303, 75-3303a, 75-3304, 75-3304a, 75-3307, 75-3315, 75-3323, 75-3328, 59-2130, 59-2135, 75-3338, 75-3339a, 75-3340, 75-3343a, 75-3347, 75-3354, 75-3728a, 75-5308e, 75-5309a, 75-5310, 75-5310a, 75-5313, 75-5316a, 75-5319, 75-5320, 75-5321, 75-5326, 75-5328a, 75-5343, 75-5344, 75-5345, 75-5365, 75-5371, 75-5375, 75-5376, 75-5381, 75-5382, 75-5383, 75-5386, 75-5391, 75-5393, 75-53,100, 75-5902, 75-5923, 75-5925, 75-5940, 75-5946, 75-5947, 75-5949, 75-5952, 75-5956, 76-170, 76-175, 76-317, 76-1237, 76-12a16, 76-12a17, 76-12a22, 76-12a30, 76-1528, 76-17a10, 76-17c07, 76-1936, 76-1958 and 78-101 and K.S.A. 2012 Supp. 8-255, 8-1008, 8-1567, 9-1216, 12-4509, 12-4516, 12-4516a, 16-312, 17-1762, 19-4001, 19-4007, 20-378, 20-380, 21-5413, 21-5512, 21-5914, 21-5926, 21-5927, 21-6602, 21-6614, 21-6702, 21-6708, 22-2410, 22-3302, 22-3303, 22-3305, 22-3428, 22-3727a, 22-4612, 23-2202, 23-2203, 23-2204, 23-2209, 23-2212, 23-2213, 23-2219, 23-3102, 23-3109, 23-3113, 23-3114, 23-3121, 23-3210, 23-36,201, 23-36,310, 32-906, 32-918, 32-930, 38-143, 38-144, 38-1604, 38-1608, 38-1664, 38-2202, 38-2212, 38-2222, 38-2223, 38-2226, 38-2247, 38-2261, 38-2282, 38-2304, 38-2310, 38-2312, 38-2319, 38-2326, 38-2335, 38-2350, 38-2356, 38-2361, 39-709, 39-717, 39-754, 39-756, 39-757, 39-760, 39-784, 39-785, 39-7,108, 39-7,129, 39-7,132, 39-7,134, 39-7,135, 39-7,138, 39-7,151, 39-7,155, 39-7,156, 39-7,157, 39-7,158, 39-7,159, 39-7,160, 39-7,162, 39-923, 39-924, 39-926, 39-930, 39-935, 39-936, 39-938, 39-940, 39-944, 39-945, 39-946, 39-947, 39-947a, 39-948, 39-950, 39-951, 39-952, 39-953a, 39-954, 39-958, 39-961, 39-963, 39-965, 39-968, 39-969, 39-970, 39-971, 39-1002, 39-1202, 39-1402, 39-1404, 39-1405, 39-1406, 39-1407, 39-1408, 39-1409, 39-1411, 39-1430, 39-1431, 39-1432, 39-1433, 39-1436, 39-1443, 39-1605, 39-1803, 40-2,111, 40-2134, 40-3401, 40-4704, 41-2622, 44-508, 44-575, 44-577, 46-922, 46-1208e, 46-2801, 59-2122, 59-2123, 59-2132, 59-2946, 59-2972, 59-2978, 59-29a02, 59-29a07, 59-29a11, 59-29a22, 59-29b46, 59-29b66, 59-3069, 60-2308, 65-1,246, 65-445, 65-503, 65-504, 65-506, 65-508, 65-516, 65-1456, 65-1673, 65-1674, 65-2409a, 65-2422d, 65-2895, 65-3503, 65-3504, 65-3506, 65-4024a, 65-4024b, 65-4412, 65-6205, 65-6207, 65-6210, 65-6214, 65-6217, 65-6218, 65-6220, 65-6501, 65-6502, 65-6503, 65-6610, 72-962, 72-973, 72-997, 72-1113, 72-53,106, 72-6407, 72-8187, 72-8223, 73-1209, 74-32,151, 74-32,160, 74-32,161, 74-4902, 74-4911f, 74-4927, 74-5602, 74-6703, 74-8917, 74-9501, 75-723, 75-725, 75-2935, 75-3306, 75-3307b, 75-3329, 75-3339, 75-37,121, 75-4265, 75-4266, 75-4375, 75-4376, 75-4378, 75-5268, 75-

5301, 75-5366, 75-5367, 75-5397a, 75-5399, 75-53,105, 75-53,112, 75-5674, 75-5675, 75-5741, 75-5742, 75-5743, 75-5903, 75-5908, 75-5910, 75-5914, 75-5928, 75-5933, 75-5945, 75-5951, 75-5958, 75-5961, 75-6202, 75-6506, 75-6508, 75-7023, 75-7302, 75-7306, 75-7310, 75-7311, 75-7405, 75-7435, 76-375, 76-381, 76-6b05, 76-12a01, 76-12a08, 76-12a10, 76-12b01, 76-1305, 76-1306, 76-1307, 76-17c08, 79-3221g, 79-3234, 79-32,200 and 79-4805 and repealing the existing sections; and also repealing K.S.A. 2012 Supp. 39-7,161, 39-923a, 75-37,121a and 79-3234c, by Committee on Public Health and Welfare.

SB 108, AN ACT concerning the offices of the governor and lieutenant governor; relating to vacancies therein, by Committee on Ethics, Elections and Local Government.

SENATE CONCURRENT RESOLUTION No. SCR 1608—

By Committee on Education

A PROPOSITION to amend section 6 of article 6 of the constitution of the state of Kansas; relating to school finance.

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 6 of article 6 of the constitution of the state of Kansas is hereby amended to read as follows:

"**§ 6. Finance.** (a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature shall make suitable provision for finance of the educational interests of the state. *The financing of the educational interests of the state is exclusively a legislative power under article 2 of the constitution of the state of Kansas and as such shall be established solely by the legislature.*

(c) No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law. The legislature may authorize the state board of regents to establish tuition, fees and charges at institutions under its supervision.

(~~e~~) (d) No religious sect or sects shall control any part of the public educational funds."

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 expressly state that the financing of the educational interests of this state is exclusively a legislative power and is to be determined solely by the legislature.

"A vote for this proposition would make financing of the educational interests of this

state determined solely by the legislature.

"A vote against this proposition would retain the current provision in the Kansas constitution, which has been interpreted by the Kansas Supreme court as empowering that court to order the Kansas legislature to fund public schools in whatever amounts that the Kansas Supreme court may determine necessary."

Sec. 3. This resolution, if approved by 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 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 the election in August in the year 2014 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Ethics, Elections and Local Government: **SB 97, SB 98, SB 99, SB 100.**

Federal and State Affairs: **SB 102.**

Public Health and Welfare: **SB 95.**

Transportation: **SB 96, SB 101.**

COMMUNICATIONS FROM STATE OFFICERS

KANSAS CORPORATION COMMISSION

January 31, 2013

Patti Petersen-Klein, Executive Director, and Jesse Borjon, Director of Public Affairs and Consumer Protection, submitted the annual report to the 2013 Legislature regarding Utilities and Common Carriers.

January 31, 2013

Pursuant to the requirements of KSA 2011 Supp. 66-2005 as amended by SB 350, HB 2637 and SB 72, which were enacted by the 2006, 2008 and 2011 Legislatures, respectively regarding Annual Price Deregulation Report was submitted by Patti Petersen-Klein, Executive Director.

January 31, 2013

Pursuant to the requirements of KSA 66-1282, Patti Petersen-Klein, Executive Director, Jeff McClanahan, Director Utilities Division, and Michael Wegner, Chief Energy Operations, submitted the 2013 Biennial Report on Electric Supply and Demand.

The president announced that the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2023**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2023 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1707—

A RESOLUTION congratulating the Shawnee Mission West High School Football Team on winning the 2012 Kansas 6A State football championship.

WHEREAS, The Shawnee Mission West High School football team won the 2012 Kansas 6A State championship with a 19-14 victory over Hutchinson High School on November 24, 2012, in Topeka, KS; and

WHEREAS, This championship is the first state football title the Shawnee Mission West Vikings have won since 1985; and

WHEREAS, The Vikings, led by Coach Callaghan, finished the 2012 season with a remarkable record of 12-1; and

WHEREAS, The members of the championship team are: Joey Reed, Jaunyae Stallings, Kenny McKenzie, Raymond Cherry, Alec Dinges, Javier Lara Salgado, Shane Hutsell, Ben Lake, Dom Tuma, Cooper Arner, Chris Garcia, Ronnie Thompson, Rob Rice, Jordan Neff, A.J. Verdini, P.D. Delaney, Kez Demby, Javin Austin, Isaiah Macklin, Brett Sterbach, Bryce Taylor, Andre Maloney, Asher Goldston, Carredyn Steele, Jordan Dillard, Jerayle Christopher, D'Ante Walker, Tory Powell, Steffon Ward, Alexander Martin, Rashaun Owens, Andre Pettit, Quinn Harrold, Lee Spight, Tanner Clark, Max Bullard, Marquan Osbey, Tyler Haley, Ryan Cheshire, Aaron Brown, Matt Spellman, Isaac Lopez, Nigel Baselle, Mark Stapleton, Carter Pembridge, Austin Chambers, Joel Spiller, D.J. Hobbs, Mitchell Wade, and Austin Dvorak; and

WHEREAS, Coach Callaghan just finished his tenth year coaching the Shawnee Mission West Viking football team. This championship marks Callaghan's second appearance in the 6A State football championship game, with his first appearance being in 2006, also against the Hutchinson High Salthawks. Coach Callaghan was named 2012 Chiefs Kansas High School Coach of the Year, and also received the Coach of the Week award from the Chiefs after the Vikings' victory over rival Shawnee Mission East High School: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the Shawnee Mission West High School football team and Coach Callaghan for winning the 2012 Kansas 6A State football championship. Their hard work and athleticism are points of pride for their families, school and the Shawnee Mission community. We wish the athletes and Coach Callaghan continued success on and off the football field; and

Be it further resolved: That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator Smith.

On emergency motion of Senator Smith **SR 1707** was adopted unanimously. The coaches and football team were introduced and honored with a standing ovation.

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1708—

A RESOLUTION congratulating Joanne Budler on receiving the 2013 Librarian of the Year Award from the *Library Journal*.

WHEREAS, Joanne Budler, the Kansas State Librarian, is *Library Journal's* choice for 2013 Librarian of the Year; and

WHEREAS, Jo Budler was appointed State Librarian for the State of Kansas in March 2010 by Kansas Governor, Mark Parkinson. Ms. Budler was reappointed in 2011 by Governor Sam Brownback; and

WHEREAS, Before coming to Kansas, Ms. Budler served as the State Librarian of Ohio for six years. Previously, she was the Deputy State Librarian for the Library of Michigan and the Director of Network Services in Nebraska; and

WHEREAS, Ms. Budler, originally from Queens, New York, graduated from Syracuse University with a Bachelor of Arts degree in English/Composition. She received her Master's degree in Library Science and another Master's degree of Fine Arts in Writers' Workshop, both from the University of Iowa; and

WHEREAS, Shortly after coming to Kansas, Ms. Budler worked hard to preserve the Kansas Library's collection in electronic format by creating a new e-book platform. This new platform saved the State of Kansas a considerable amount of money and is now being used by several e-book users of America's libraries; and

WHEREAS, Ms. Budler's dedication to the Kansas State Library is an inspiring example of hard work and ingenuity. Her work for the State Library is appreciated by all Kansans, and her inventive problem-solving skills provide a true asset to the Kansas State Library: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate Joanne Budler on receiving the 2013 Librarian of the Year Award from the *Library Journal*. Her award will be celebrated by Kansans across the state as they appreciate the State Library's new e-book platform; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Joanne Budler.

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

Mrs. Budler was introduced and honored with a standing ovation. Her husband, daughter and staff were also guests.

REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 16** be passed.

Also, **SB 58** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

SB 19 be amended on page 2, by striking all in lines 27 through 32 and inserting:
"(2) "Undue influence" means the use by an individual who stands in a position of

trust or confidence of the individual's role, relationship or authority to wrongfully exploit the trust, dependency or fear of a dependent adult to gain control over the decision-making of such dependent adult, including decision-making related to finances, property, residence and health care."; and the bill be passed as amended.

SB 40 be amended on page 1, in line 8, after "murder" by inserting "in the first degree"; in line 9, after "3401," by inserting "prior to its repeal, or K.S.A. 2012 Supp. 21-5402,"; also in line 9, after "21-3502," by inserting "prior to its repeal, or K.S.A. 2012 Supp. 21-5503,"; and the bill be passed as amended.

SB 61 be amended on page 22, in line 6, by striking "shall" and inserting "may"; and the bill be passed as amended.

On motion of Senator Bruce, the Senate adjourned pro forma until 8:00 a.m., Friday, February 1, 2013.

HELEN MORELAND, ROSE MARIE GLATT, CHARLENE BAILEY, *Journal Clerks.*

DIANE MINEAR, *Secretary of the Senate.*



CORRECTION OF THE JOURNAL

Correct the Journal of the Senate for Wednesday, January 30, 2013, Page 96, under the heading "Committee of the Whole" by deleting the following amendment proposed by Senator Hensley, in line 17, by striking "either executive or"; also in line 17, by striking "except that"; in line 18, by striking "no final action thereon may be taken in executive session" and insert the following:

in line 16, by striking "may" and inserting "shall"; in line 17, by striking "in either executive or regular session except that"; in line 18, by striking "no final action thereon may be taken in executive" and inserting "only in open"

Also, correct the journal on page 96, under the heading of "Committee of the Whole" after the following sentence: Senator McGinn made a motion to amend **SCR 1601**, on page 9, in line 10, by striking "August" and inserting "November" and insert the following:

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

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

Yeas: Bowers, Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Longbine, McGinn, Pettey, V. Schmidt, Wolf.

Nays: Abrams, Apple, Arpke, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kersch, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, ODonnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

The motion failed and the amendment was rejected.