

Journal of the Senate

SIXTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, May 5, 2017, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with 40 senators present.
Invocation by Reverend Cecil T. Washington:

Heavenly Father, as we move into the weekend, and as more efforts go toward the tasks at hand, please give wisdom, guidance and resources.

And, nonetheless, we need discernment. We need the ability to discriminate between that which truly comes from You and that which is a counterfeit.

As we work in these halls to elevate Your people, there is an undertaking in our midst, designed to take us under. Sometimes we feel it in these halls. Sometimes we feel it in our communities. And, sometimes we feel it in our homes.

As a result, we're often tempted to listen to counterfeit wisdom; to heed faulty guidance and to grab for resources found in quicksand...resources that will pull us down. Where You provide butter, there's usually an offer of margarine.

The decisions we make are so important, that in 2 Timothy 2:1-5, You've command people to pray for those of us in authority, so we all can prosper and live in peace.

So, Lord, as You honor the multitude of prayers being offered for all the servants in these halls, help us to discern and to experience Your wisdom, Your guidance and resources that come from Your hand.

For all of this, we praise You and shower blessings upon Your people. I thank You Lord for hearing and answering, in the Name of Jesus, Amen and Amen!

The Pledge of Allegiance was led by President Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 248, AN ACT concerning education; relating to the state board of education; creating the student opportunity scholarship program, by Committee on Assessment and Taxation.

MESSAGES FROM THE GOVERNOR

SB 112 approved on May 05, 2017

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

The senate met pursuant to recess with Vice President Jeff Longbine in the chair.

ORIGINAL MOTION

Senator Denning moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 89**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 89** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 11, following line 8, by inserting:

"New Sec. 4. There is hereby established in the state treasury the seat belt safety fund which shall be administered by the secretary of transportation. All expenditures of moneys in the seat belt safety fund shall be used for the purpose of promotion and education of occupant protection among children, including, but not limited to, programs in schools in Kansas and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or by a person or persons designated by the secretary of transportation. The secretary of transportation may accept all gifts, grants, donations and bequests to the fund. The secretary of transportation shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the seat belt safety fund.

New Sec. 5. On July 1, 2017, the director of accounts and reports shall transfer all moneys in the repossessed certificates of title fee fund to the division of vehicles operating fund. On July 1, 2017, all liabilities of the repossessed certificates of title fee fund are hereby transferred to and imposed on the division of vehicles operating fund, and the repossessed certificates of title fee fund is hereby abolished.

Sec. 6. K.S.A. 2016 Supp. 8-2504 is hereby amended to read as follows: 8-2504. (a) (1) Persons violating ~~subsection (a)(1) of~~ K.S.A. 8-2503(a)(1), and amendments thereto, shall be fined ~~\$5 and no court costs and, from and after July 1, 2011, persons violating subsection (a)(1) of K.S.A. 8-2503, and amendments thereto, shall be fined \$10 \$30~~ and no court costs; and

(2) persons violating ~~subsection (a)(2) of~~ K.S.A. 8-2503(a)(2), and amendments thereto, shall be fined \$60 and no court costs.

(b) No court shall report violation of this act to the department of revenue.

(c) Evidence of failure of any person to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(d) The provisions of this section shall be applicable and uniform throughout the state and no city, county, subdivision or local authority shall enact or enforce any law,

ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of this section.

Sec. 7. K.S.A. 2016 Supp. 12-4120 is hereby amended to read as follows: 12-4120.

(a) On and after July 1, 2012, the amount of \$250 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-1567 or 8-2,144 or K.S.A. 2016 Supp. 8-1025, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 2016 Supp. 75-52,113, and amendments thereto.

(b) On and after July 1, 2013, the amount of \$2,500 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 2016 Supp. 21-6421, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the human trafficking victim assistance fund established by K.S.A. 2016 Supp. 75-758, and amendments thereto.

(c) On and after July 1, 2017, the amount of \$20 from each fine imposed for a violation of a city ordinance requiring the use of safety belts for those individuals required by K.S.A. 8-2503(a)(1), and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the seat belt safety fund established by section 4, and amendments thereto.

Sec. 8. K.S.A. 2016 Supp. 74-7336 is hereby amended to read as follows: 74-7336.

(a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit:

- (1) ~~10.94%~~10.7% to the crime victims compensation fund;
- (2) ~~2.24%~~2.19% to the crime victims assistance fund;
- (3) ~~2.75%~~2.69% to the community alcoholism and intoxication programs fund;
- (4) ~~7.65%~~7.48% to the department of corrections alcohol and drug abuse treatment fund;
- (5) 0.16% to the boating fee fund;
- (6) 0.11% to the children's advocacy center fund;
- (7) ~~2.28%~~2.23% to the EMS revolving fund;
- (8) ~~2.28%~~2.23% to the trauma fund;
- (9) ~~2.28%~~2.23% to the traffic records enhancement fund;
- (10) ~~4.4%~~4.31% to the criminal justice information system line fund; ~~and~~
- (11) ~~2.2% to the seat belt safety fund; and~~
- (12) the remainder of the remittances to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.";

Also on page 11, in line 9, by striking the second "and" and inserting a comma; in line 10, after "145d" by inserting ", 8-2504, 12-4120 and 74-7336";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "use of safety belts, violations, distribution of revenues; establishing the seat belt safety fund;"; in line 3, by striking the first "and" and inserting a comma; also in line 3, after "8-145d" by inserting ", 8-2504, 12-4120 and 74-7336";

And your committee on conference recommends the adoption of this report.

RICHARD PROEHL
SHANNON FRANCIS
ADAM LUSKER

Conferees on part of House

MIKE PETERSEN
JOHN DOLL
PAT PETTEY

Conferees on part of Senate

Senator Petersen moved the Senate adopt the Conference Committee Report on **SB 89**.

On roll call, the vote was: Yeas 32; Nays 7; Present and Passing 1; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Estes, Fitzgerald, Francisco, Givens, Goddard, Hardy, Hawk, Hensley, Hilderbrand, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Wilborn.

Nays: Faust-Goudeau, Haley, Holland, Pilcher-Cook, Pyle, Tyson, Wagle.

Present and Passing: Doll.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

Mr. Vice President: I vote "NO" on CCR **SB 89**; primarily increasing the fines for not wearing a seat belt, either by the driver and/or passenger(s). Over the years in the Legislature I have, albeit often reluctantly, voted first to make not wearing a seat belt a secondary traffic offense then, later, a primary traffic offense despite my belief then (and now) that often a pretextual stop will ensue by law enforcement of what would otherwise be a flimsy or pretextual stop of a driver which is really motivated by "biased profiling"; racially or otherwise. (If the "thought-I-saw-a-busted-taillight" doesn't apply, the "didn't-see-your-seatbelt-harness-across-your-shoulder" excuse for pulling someone over might. And we know what population, Mr. Vice President, these pretextual, profiling stops MOST disaffect, don't we?) But, the public safety data is clear. Wearing a seat belt saves life and prevents greater injury in vehicle accidents to both driver and passenger. So, I voted for the previous measures. The data is in and clear on fine enhancement between the amount of the fine and general compliance. As in so many other examples of penalty enhancement(s), there is NO correlation between an increase of this fine and greater compliance. Zero. Accordingly, I see no reason to tax people with a fee increase which serves NO public utility whatsoever.

—DAVID HALEY

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2132** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2132," as follows:

"Senate Substitute for HOUSE BILL NO. 2132
By Committee on Federal and State Affairs

"AN ACT concerning port authorities; relating to the sale of property; amending K.S.A. 2016 Supp. 12-3412 and repealing the existing section."; and the substitute bill be passed.

Committee on **Ways and Means** recommends **HB 2130** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2130," as follows:

"Senate Substitute for HOUSE BILL NO. 2130
By Committee on Ways and Means

"AN ACT concerning health maintenance organizations; relating to privilege fees; rate; disposition of moneys; extending the medical assistance fee fund; amending K.S.A. 2016 Supp. 40-3213 and 40-3236 and repealing the existing sections."; and the substitute bill be passed.

Also, **HB 2278** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2278," as follows:

"Senate Substitute for HOUSE BILL NO. 2278
By Committee on Ways and Means

"AN ACT concerning firearms; relating to the personal and family protection act; prohibiting the carrying of concealed firearms in certain buildings; amending K.S.A. 2016 Supp. 75-7c20 and repealing the existing section."; and the substitute bill be passed.

HB 2407, as amended by House Committee, be amended on page 1, in line 20, by striking "or"; in line 21, by striking "70-701(d)" and inserting "71-701(d)"; also in line 21, after "thereto" by inserting ", or the department of transportation"; following line 21, by inserting:

"Sec. 2. (a) Subject to the provisions of K.S.A. 2016 Supp. 32-833, and amendments thereto, the secretary of wildlife, parks and tourism is hereby authorized to acquire by purchase the following tracts of land located in Sherman county, Kansas, more particularly described as:

(1) Tract A: The Southwest Quarter (SW ¼) of Section Three (3), Township Ten (10) South, Range Forty (40) West of the 6th P.M. in Sherman County, Kansas, LESS THE FOLLOWING DESCRIBED TRACT: Referring to the South Quarter (S¼) corner of said Section 3, thence S89°48'57"W (assumed and all bearings relative to) along the South section line a distance of 47.00 feet to the Point of Beginning. Thence continuing along the South section line a distance of 434.67 feet to a point, thence N00°05'32"E a distance of 656.91 feet to a point, thence S89°03'30"E a distance of 440.02 feet to a point 41.70 feet West of the ¼ section line, thence S00°33'38"W a distance of 648.32 feet to the Point of Beginning. Said tract contains 6.55 acres, more or less.

(2) Tract B: The East Half (E ½) of Section Nine (9), Township Ten (10) South, Range Forty (40) West of the 6th P.M., LESS THE FOLLOWING DESCRIBED TRACT: The South 440 feet of the Southeast Quarter (SE ¼) of Section Nine (9), Township Ten (10) South, Range Forty (40) West of the 6th P.M., Sherman County,

Kansas.

(3) Tract C: All of Section Ten (10), Township Ten (10) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas.

A total containing 1,078 acres more or less.

(b) Prior to payment for the purchase authorized by this section, the secretary of wildlife, parks and tourism shall determine that the requirements prescribed by K.S.A. 2016 Supp. 32-833, and amendments thereto, have been met.

(c) The provisions of K.S.A. 75-3043a and 75-3739, and amendments thereto, shall not apply to the acquisition authorized by this section or any contracts required therefor.

(d) In the event that the secretary of wildlife, parks and tourism determines that the legal description of the parcel described by this section is incorrect, the secretary of wildlife, parks and tourism may purchase the property utilizing the correct legal description.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 2, after "administration" by inserting "; authorizing the department of wildlife, parks and tourism to purchase land in Sherman county"; and the bill be passed as amended.

REPORT ON ENROLLED BILLS

SB 112 reported correctly enrolled, properly signed and presented to the Governor on May 04, 2017.

H Sub SB 101; SB 205 reported correctly enrolled, properly signed and presented to the Governor on May 05, 2017.

SR 1740, SR 1741, SR 1742, SR 1743, SR 1744 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on May 05, 2017.

TRIBUTES

The Committee on **Organization, Calendar and Rules** authorizes the following tributes for the week of May 1-5, 2017:

Senator Bowers: congratulating Ottawa County Rural Water District #2 on its water quality award, congratulating Karen Kiser on receiving the Rural Water Association City Clerk Award, commending Melanie Cotton for receiving the Girl Scout Gold Award, commending Emily Lowe for receiving the Girl Scout Gold Award, commending Captain Steve Wells for his service to the Russell City Fire Department and receiving the award for outstanding leadership, congratulating Amber Whitmer on being named the Russell City Fire Department Firefighter of the Year, congratulating the City of Plainville for winning the LKM Hometown Showdown, congratulating Stan VanMeter on being named the Kansas Rural Water Association Operator of the Year; and

Senator Schmidt, Senator Kelly, and Senator Hensley: congratulating Gregg Ratzloff on his retirement and commending his commitment to education in Kansas.

MAY 5, 2017

619

On motion of Senator Denning, the Senate adjourned until 10:00 a.m., Monday, May 8, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

