

Journal of the Senate

THIRTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 7, 2012, 2:30 p.m.

The Senate was called to order by Vice President John Vratil.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Research has discovered some basic principles which underlie the thinking of our founding fathers.

Here are quotes from seven of our founders which reveal their principles involving government...

God guides and controls the universe and the affairs of mankind.

God has revealed His truth through the Scriptures.

God has ordained human government to restrain the sinful nature of humanity.

Governments are formed by covenant or compact of the people in order to safeguard human rights.

Governments have only such powers as are delegated to them by the people.

The best way to prevent governments from usurping power is to separate powers and functions into legislative, executive, and judicial branches.

Human nature being what it is, a free enterprise economy is the best way to give people an incentive to produce and develop national prosperity.

Thank You, Lord, for calling men as founders of our nation who adhere to the principles that are either derived from or compatible with the Bible.

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by Vice President John Vratil.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 456, AN ACT concerning municipalities; creating the municipality infrastructure improvement program; amending K.S.A. 2011 Supp. 74-8768 and repealing the existing section, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **SB 454**.

Reapportionment: **SB 455**.

Committee of the Whole: **SCR 1616**.

CHANGE OF REFERENCE

The Vice President withdrew **Sub HB 2159** from the Committee on **Public Health and Welfare** and referred the bill to the Committee on **Public Health and Welfare** (Separately) and the Committee on **Financial Institutions and Insurance** (Separately).

MESSAGE FROM THE GOVERNOR

March 5, 2012

Senate Bill 272 approved March 5, 2012

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2396, HB 2550, HB 2743**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2396, HB 2550, HB 2743 were thereupon introduced and read by title.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

By the Governor:

On the appointment to the:

University of Kansas Hospital Authority:

Alex Ammar, term expires March 15, 2014.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

By the Governor:

On the appointment to the:

University of Kansas Hospital Authority:

Greg Graves, term expires March 15, 2015.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

By the Governor:

On the appointment to the:

University of Kansas Hospital Authority:

Sharon Lindenbaum, term expires March 15, 2015.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The appointment was confirmed.

FINAL ACTION ON CONSENT CALENDAR

HB 2535 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

HB 2535, AN ACT concerning the prisoner review board; updating references and corresponding changes due to the transfer of authority from the Kansas parole board to the prisoner review board; amending K.S.A. 22-3706, 22-3709, 22-3710, 22-3711, 22-3712, 22-3713, 22-3718, 22-3719, 22-3720, 22-3722, 22-3726, 22-4111, 60-4305, 74-7320, 74-7321, 74-9102 and 75-5202 and K.S.A. 2011 Supp. 12-4516, 19-4804, 21-6603, 21-6606, 21-6609, 21-6614, 21-6803, 22-3701, 22-3717, 22-3728, 22-3729, 22-4701, 59-29a02, 74-4911f, 74-9101, 75-4318, 75-4319, 75-5210a, 75-5217, 75-5266, 77-421 and 77-603 and repealing the existing sections; also repealing K.S.A. 22-3707a and 22-3708 and K.S.A. 2011 Supp. 21-6614a, 21-6614b, 21-6614c and 22-3707.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. **1830**—

A RESOLUTION recognizing the need to protect animals and children from the danger of antifreeze poisoning.

WHEREAS, For six wonderful years, Nikko, a Shiba Inu, and Aaron Coash, a 12-year-old Kansas boy were best friends. They competed in dog shows together and brought happiness to older adults in nursing homes. However, one day when Aaron returned home from school, Nikko was not there to greet him. The dog had wandered off on an ill-fated adventure and ended up drinking antifreeze. Nikko's health quickly declined and after a week of pain due to the antifreeze poisoning, the dog died; and

WHEREAS, Antifreeze poisoning kills an estimated 10,000 animals and more than a thousand children each year, according to the Humane Society of the United States. The main component of antifreeze is ethylene glycol, which tastes sweet and attracts pets and children. The poison attacks the kidneys and by the time symptoms are evident, the kidneys are already failing. A mere teaspoon of antifreeze can kill a small dog; and

WHEREAS, In order to protect children and pets, 17 states in the U.S. (Arizona, California, Georgia, Illinois, Maine, Maryland, Massachusetts, New Jersey, New Mexico, Oregon, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin) have signed into law or enacted law requiring the addition of a bittering agent to antifreeze; and

WHEREAS, The addition of a bittering agent such as denatonium benzoate would render engine coolants and antifreeze bitter-tasting and unpalatable; and

WHEREAS, Consumers are often not aware that in some states bulk sales of antifreeze are not required to have a bittering agent. This means that a trip to the local refueling station will bring home untreated antifreeze. The bittering agent, denatonium benzoate, adds only a minimal cost increase to manufacturers, about two to three cents per bottle; and

WHEREAS, Aaron Coash has requested a bill for introduction in the Kansas legislature that would require all antifreeze sold in the state of Kansas to contain a chemical that turns its sweet taste bitter. He is calling it Nikko's law, in honor of his dog: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the need to protect animals and children from the danger of antifreeze poisoning and commend Aaron Coash for his efforts in proposing Nikko's law; and

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

On emergency motion of Senator McGinn **SR 1830** was adopted unanimously.

Senator McGinn introduced senate page Aaron Coash, who was recognized for his proposal of Nikko's law, in honor of his dog.

Senators Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Longbine, Marshall, McGinn, Morris, Owens, Reitz, A. Schmidt, V. Schmidt, Schodorf, Teichman, Umbarger and Vratil introduced the following senate resolution which was read:

A RESOLUTION requesting that Governor Sam Brownback, the Secretary for Aging and Disability Services, the Department for Aging and Disability Services, the Secretary of Health and Environment and the Department of Health and Environment delay the implementation of the statewide KanCare program until July 1, 2013.

WHEREAS, Delay until July 1, 2013, will allow Governor Brownback's administration to receive necessary stakeholder and public input on the implementation of the KanCare program by Managed Care Organizations; and

WHEREAS, Such delay will allow the appropriate state agencies the opportunity to determine whether the state of Kansas home and community based service programs, especially the services for the developmentally disabled, and community mental health programs should be included within the KanCare program; and

WHEREAS, Such delay will give more time for the members of the Kansas Legislature to study and determine, during the interim period after the 2012 regular session, the 2013 regular session and the interim period after the 2013 regular session, how medical care and long-term services and supports should be administered to low-income, the disabled and the elderly citizens of our state; and

WHEREAS, Such delay will give more time for the members of the Kansas Legislature to study and determine, during the interim period after the 2012 regular session, the 2013 regular session and the interim period after the 2013 regular session, how the proposed KanCare program would affect the operation of hospitals, pharmacies, doctors, dentists, nursing homes and long-term care providers in rural Kansas communities; and

WHEREAS, Such delay will give more time for the members of the Kansas Legislature to study and determine, during the interim period after the 2012 regular session, the 2013 regular session and the interim period after the 2013 regular session, how the proposed KanCare program would affect the operation of all hospitals and adult care facilities throughout Kansas; and

WHEREAS, Such delay will allow the members of the Kansas Legislature the opportunity, during the interim period after the 2012 regular session, the 2013 regular session and the interim period after the 2013 regular session, to gather information on proposed KanCare programs, hold important committee meetings and provide oversight on the KanCare program so that appropriate case management practices are employed to ensure proper medical and long-term care decisions are made; and

WHEREAS, Such delay will allow the members of the Kansas Legislature and the Kansas Commissioner of Insurance and Insurance Department sufficient time to review and assess the pending United States Supreme Court ruling on the constitutionality of the Patient Protection and Affordable Care Act, 124 Stat. 119 through 124 Stat. 1025, and to determine how the ruling will impact the implementation and operation of the KanCare program in Kansas; and

WHEREAS, Such delay will allow all appropriate state agencies to obtain required federal waivers, to write appropriate implementation plans, and to communicate these implementation plans to the thousands of service providers and consumers of services in Kansas; and

WHEREAS, Such delay will allow the members of the Kansas Legislature the opportunity to ensure that the thousands of medical and long-term care providers under

the state Medicaid plan have been properly trained to carry out the implementation and day-to-day requirements of the KanCare program and further ensure that the Managed Care Organizations in KanCare have put in place adequate procedures to ensure proper timing in the billing of claims and that timely payments to all providers have been made and properly accounted for: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we urge Governor Sam Brownback, the Secretary for Aging and Disability Services, the Department for Aging and Disability Services, the Secretary of Health and Environment and the Department of Health and Environment and all other appropriate state agencies to delay the implementation of the statewide KanCare program until July 1, 2013, in order to ensure that all participants and enrollees will continue receiving quality services under Medicaid programs and to ensure that all providers operate in a most efficient system; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to the Governor of the State of Kansas, the Secretary for Aging and Disability Services and the Secretary of Health and Environment.

REPORT ON ENROLLED BILLS

SR 1827, SR 1828, SR 1829 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 7, 2012.

REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** recommends **SB 431** be passed.

Committee on **Transportation** recommends **HB 2599**, as amended by House Committee; **HB 2612** be passed.

Also, **HB 2509** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Ways and Means** recommends **HB 2461**, as amended by House Committee of the Whole, be amended on page 3, in line 32, after "fund." by inserting "The 15% limitation contained in this subsection shall not have been violated if the total of such alternative investments exceeds 15% of the total investment assets of the fund, based on the fund total market value, as a result of market forces acting to increase the value of such alternative investments relative to the rest of the system's investments. However, the board shall not invest or reinvest any moneys of the fund in alternative investments until the total value of such alternative investments is less than 15% of the total investment assets of the fund based on the market value. If the total value of the alternative investments exceeds 15% of the total investment assets of the fund, the board shall not be required to liquidate or sell the system's holdings in any alternative investment held by the system, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and is prudent under the standards contained in this section."; and the bill be passed as amended.

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 Taddiken in the chair.

On motion of Senator Taddiken the following report was adopted:

Recommended **SB 353; HB 2484, HB 2569, HB 2624** be passed.

Sub SB 71; SB 250, SB 413, SB 438 be amended the adoption of the committee amendments, and the bills be passed as amended.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Emler an emergency was declared by a 2/3 constitutional majority, and **Sub SB 71; SB 250, SB 353, SB 413, SB 438; HB 2484, HB 2569** and **HB 2624** were advanced to Final Action and roll call.

Sub SB 71, AN ACT concerning insurance; pertaining to line of insurance and reporting requirements; pertaining to fingerprints and criminal record checks for certain insurance agents and public adjusters; amending K.S.A. 2011 Supp. 40-4903, 40-4905, 40-5504 and 40-5505 and repealing the existing sections.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The substitute bill passed, as amended.

SB 250, AN ACT pertaining to the continuation of health insurance for firefighters.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. VICE PRESIDENT: On behalf of the fallen firefighters and their families of the State of Kansas, I vote YES on **SB 250**. – OLETHA FAUST-GOUDEAU

MR VICE PRESIDENT: I support **SB 250** because of the clear message it sends to our firefighters and their families in the case the firefighter is killed or dies in the Line of Duty. This bill provides an essential bridge in family health coverage by continuing that coverage for up to eighteen months. I understand this is an unfunded mandate for municipalities and have discussed this with several city leaders and the League of Municipalities and have received the support from most, since we reduced the coverage from five years to eighteen months and as only four firefighters have died in the Line of Duty in Kansas in nearly ten years. Mr. Vice President, this type of support for the families of those fallen in the line of duty represents a small price for us but a huge support to those who serve us as firefighters. – ALLEN C. SCHMIDT

SB 353, AN ACT concerning barbers; relating to the powers of the board; fees; licensure; amending K.S.A. 65-1819 and 65-1820a and K.S.A. 2011 Supp. 65-1817 and 65-1824 and repealing the existing sections.

On roll call, the vote was: Yeas 35; Nays 5; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Masterson, McGinn, Morris, Olson, Ostmeyer, Owens, Petersen, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil.

Nays: Marshall, Merrick, Pilcher-Cook, Pyle, Wagle.

The bill passed.

SB 413, AN ACT concerning employment; creating the professional employer organization registration act.

On roll call, the vote was: Yeas 38; Nays 2; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Olson, Pilcher-Cook.

The bill passed, as amended.

SB 438, AN ACT concerning the state directory of new hires; relating to information submitted by employers; amending K.S.A. 2011 Supp. 75-5743 and repealing the existing section.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed, as amended.

HB 2484, AN ACT concerning civil procedure; relating to depositions; amending K.S.A. 2011 Supp. 60-228 and repealing the existing section.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

HB 2569, AN ACT concerning public records; relating to legislative review of exceptions to disclosure; amending K.S.A. 2011 Supp. 45-229 and repealing the existing section.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not

Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

HB 2624, AN ACT concerning counties; relating to oil and gas valuation depletion; distribution of trust fund moneys; administrative fee; amending K.S.A. 2011 Supp. 19-101a and 79-4231 and repealing the existing sections.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed.

On motion of Senator Emler, the Senate adjourned until 2:30 p.m, Thursday, March 8, 2012.

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

PAT SAVILLE, *Secretary of the Senate.*

