

Journal of the Senate

FORTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, March 16, 2015, 3:30 p.m.

The Senate was called to order by Vice President Jeff King.
Roll was called with 39 senators present.
Senator O'Donnell was excused.
Invocation by Father Don Davidson:

The warming temperatures remind us of new life and new beginnings; the planting and growing of the new crops in the field, and the return of afternoon sports and cook-outs. Help us, Dear Lord, to give thanks for all the seasons and the joy that the changes bring to our hearts. Help us to be good stewards of the good earth you have entrusted to our care, and as it blesses us help us to bless you. In Your holy name. Amen

The Pledge of Allegiance was led by Vice President Jeff King.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 286, SB 287.**
Public Health and Welfare: **SB 285.**
Senate Select Committee on KPERS: **SB 284.**

CHANGE OF REFERENCE

Under the authority of the President, the Vice President withdrew **HB 2109** from the Committee on **Judiciary**, and referred the bill to the Committee on **Assessment and Taxation**.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 13.**

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Masterson moved the Senate concur in House amendments to **H Sub SB 7.**
H Sub SB 7, AN ACT concerning education; relating to the financing and instruction thereof; making and concerning appropriations for the fiscal years ending June 30, 2015, June 30, 2016, and June 30, 2017, for the department of education; creating the classroom learning assuring student success act; amending K.S.A. 12-1677, 12-1775a, 72-1414, 72-6622, 72-6757, 72-8190, 72-8230, 72-8233, 72-8236, 72-8309, 72-8908, 79-2001 and 79-5105 and K.S.A. 2014 Supp. 10-1116a, 12-1770a, 12-1776a, 72-978,

72-1046b, 72-1398, 72-1923, 72-3607, 72-3711, 72-3712, 72-3715, 72-5333b, 72-6434, 72-6460, 72-64b01, 72-64c03, 72-64c05, 72-6624, 72-6625, 72-67,115, 72-7535, 72-8187, 72-8237, 72-8249, 72-8250, 72-8251, 72-8302, 72-8316, 72-8415b, 72-8801, 72-8804, 72-8814, as amended by section 54 of 2015 House Substitute for Senate Bill No. 4, 72-9509, 72-9609, 72-99a02, 74-32,141, 74-4939a, 74-8925, 74-99b43, 75-2319, 79-201x, 79-213 and 79-2925b and repealing the existing sections; also repealing K.S.A. 72-6406, 72-6408, 72-6411, 72-6415, 72-6418, 72-6419, 72-6424, 72-6427, 72-6429, 72-6432, 72-6436, 72-6437, 72-6444, 72-6446 and 72-6447 and K.S.A. 2014 Supp. 46-3401, 46-3402, 72-3716, 72-6405, 72-6407, 72-6409, 72-6410, 72-6412, 72-6413, 72-6414, 72-6414a, 72-6414b, 72-6415b, 72-6416, 72-6417, 72-6420, 72-6421, 72-6423, 72-6425, 72-6426, 72-6428, 72-6430, 72-6431, 72-6433, 72-6433d, 72-6434, as amended by section 38 of this act, 72-6434b, 72-6435, 72-6438, 72-6439, 72-6439a, 72-6441, 72-6441a, 72-6442b, 72-6443, 72-6445a, 72-6448, 72-6449, 72-6450, 72-6451, 72-6452, 72-6453, 72-6455, 72-6456, 72-6457, 72-6458, 72-6460, as amended by section 39 of this act, 72-6461, 72-8801a, 72-8814, as amended by section 63 of this act, 72-8814b, 72-8815 and 79-213f.

Upon the showing of five hands, a Call of the Senate was requested.

On roll call, the vote was: Yeas 25; Nays 14; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Arpke, Baumgardner, Bruce, Denning, Donovan, Fitzgerald, Holmes, King, Knox, LaTurner, Lynn, Masterson, Melcher, Olson, Ostmeier, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wilborn, Wolf.

Nays: Bowers, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Love, McGinn, Pettey, Schmidt.

Absent or Not Voting: O'Donnell.

The Senate concurred.

The Call of the Senate was lifted.

PROTEST

*Protest of Senator Hensley against House Sub. for Senate Bill No. 7
March 16, 2015*

Madam President: I hereby exercise my right under Article 2, Section 10, of the Kansas Constitution to protest **House Substitute for Senate Bill No. 7**.

The funding in this bill for the current school year is based on a funding level that has already been found to be unconstitutionally low. The operational funding for school districts is cut even further (0.4%) for 2016 and 2017.

The current school finance formula, when fully funded, has been found to ensure adequacy and equity as required by the Kansas Constitution.

This bill completely removes the weighting components that ensure that Kansas' disadvantaged students, specifically African-Americans, Latino-Americans, and other English Language Learners and foreign-born students and students living in poverty receive the same educational opportunities as non-minority and domestic-born students. These weightings evolved over several years based on expert testimony and in response to prior Kansas Supreme Court decisions and were based on the costs needed to educate different students.

Governor Brownback has specifically stated that the purpose of the block grant mechanism is to ensure that the state is not “held hostage” by changing demographics and increases in the number of students.

Such a statement indicates that this legislation, if enacted into law, will have been enacted for the purpose of eliminating the protections found in the current school finance formula that ensured African-Americans, Latino-Americans, children in poverty and English Language Learners (the members of those “changing demographics”) had equal educational opportunities as non-minority and domestic-born students.

The changes to the calculations for equalization deliberately prorate the level of equity that the State committed to restore through passage of 2014 **Senate Substitute for House Bill 2506**. The State represented to the Court that the funding of **Senate Substitute for House Bill 2506** was secure and we have now done exactly what the Court told us we could not do.

Thus, the passage of this block grant bill represents an intentional refusal to comply with the Supreme Court’s order and renders the representations made by the State to the *Gannon* trial panel patently false.

Governor Brownback has also said that "This cycle of school finance litigation must end." This block grant bill represents the Governor's unconstitutional, intentional, and futile attempt to evade the clear directives of the Supreme Court and the trial panel.

In sum, by passing this bill, we are all standing witness to the unconstitutional disassembling of public education in the State of Kansas.

The attached printout SF15-094 shows the bill’s effect on current school district budgets. It creates losses in funding only for districts eligible for equalization funding. This is not in any way constitutional or acceptable for the school children of Kansas.

—ANTHONY HENSLEY

Joined: Oletha Faust-Goudeau, Marci Francisco, Tom Hawk, Laura Kelly

* Copies of SF 15-094 are on file in the office of the Secretary of the Senate and are available for review at any time.

EXPLANATION OF VOTE

Mr. Vice President: I vote “No” on the motion to concur with **H Sub SB 7**. I believe that this new funding mechanism will create an unfair finance formula for all students, especially for those who are minorities and low income.—OLETHA FAUST-GOUDEAU

Mr. Vice President: The Senate should be discussing how to appropriate school funding, after all, K-12 funding is 53% of our annual state general fund budget. But concurring with changes made to **H Sub SB 7** in the House provides for very little discussion. Our current school finance formula takes into account changes in enrollment and other weightings. This bill assumes we should ignore those changes within districts while reducing overall funds that can be used in the classroom. Under the block grant what a district received in 2014-15 determines much of what that district will receive for the next two years. Concerns that some equalization aid is going to “wealthy” districts are ignored; the basis for determining that aid does not change although all of those districts will receive it at differing lower percentages. I agree we need changes in virtual school funding, however this proposal provides more funding per FTE for part-time students and students over the age of 18 in 2015-16 than for the full-time students

for whom the program was designed. I am concerned this bill puts the interest of some members of the legislature to have predictability in the state budget ahead of our responsibility to provide the funding to educate Kansas pupils. I vote "No" on the motion to concur. —MARC FRANCISCO

Senators Hawk, Hensley and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Francisco on **H Sub SB 7**.

Mr. Vice President: What a sad day for Kansas. Today the Kansas Legislature has chosen to abandon the current school finance formula, a bi-partisan legislative achievement that has withstood the constitutional test of time for well over 20 years, in its efforts to pay for Governor Brownback's financially devastating and unsustainable tax policies. This legislation has nothing to do with adequately and equitably educating Kansas kids but has everything to do with the pure politics of those who continue to put the desires of the well-heeled special interests ahead of the educational needs of our children. But while Charles and David Koch may have won this particular battle, Mr. Vice President, Kansas families can at least take some small measure of comfort in knowing that our Kansas courts, as yet uncorrupted by the supply side ideology cancer that has metastasized throughout Kansas' executive and legislative branches of government, are keeping a watchful eye on this legislature's actions. Sadly, it is now up to them to constitutionally protect the educational rights of those whose voices continue to be ignored in our state capitol building. I vote "No" on **H Sub SB 7**.—TOM HOLLAND

Mr. Vice President: While I support the concept that the state's school finance formula needs to be studied, I cannot support the vehicle being used to allow the study. The block grant proposal, as proposed by the Governor, was to hold school districts harmless while a new formula was being developed. **H Sub SB 7** does not hold the school districts I represent harmless. This bill reduces funding, eliminates the 2nd count for military districts and offers no certainty as to what future formulas might look like for our schools. I offer my support in developing a new funding formula, but must vote "No" on **H Sub SB 7**.—JEFF LONGBINE

Mr Vice President: I vote "Yes" on **H Sub SB 7**. The formula was flawed from the beginning and after 25 years of incrementalism has collapsed under its own weight. The block grant will provide adequate financing over the next two years as we develop a formula to thrive in the modern education environment. The new formula should reward good outcomes and good teachers with less emphasis on structures. Transparent financing and measureable outcomes are main goals of the modern education environment. In 1991 we spent \$1.1 billion on K-12 Education. Today we are spending over \$4.1 billion. Education is important for the quality of life our citizens enjoy. It is the pillar that creates prosperity across our state. We will not waiver on our quest to create a modern educational finance formula that meets expectations. We must and will be successful in writing a new formula which works for everyone; students, teachers, parents, and the tax payers.—TY MASTERSON

Senators Abrams and Denning request the record to show they concur with the "Explanation of Vote" offered by Senator Masterson on **H Sub SB 7**.

On motion of Senator Bruce, the Senate adjourned until 2:30 p.m., Tuesday, March 17, 2015.

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

