

Journal of the Senate

TWENTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 9, 2010—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator Steineger was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

We were elected by a majority
Who believed we are the best,
And we are those they hope
Will prove we pass the test.

Lord, help us not to be content
With being what they see,
But help us to become
All that we can be.

You have made it clear, O God,
That You're the only One
Who can make each one of us
Your daughter or Your son.

Help us, Lord, to trust You
With all our heart and soul
So we can serve our people
With a wisdom to behold!

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 were introduced and read by title:

SB 538. An act regulating traffic; concerning school buses; amending K.S.A. 8-2009a and repealing the existing section, by Committee on Federal and State Affairs.

SB 539. An act concerning school finance; repealing K.S.A. 72-6406, 72-6408, 72-6411, 72-6415, 72-6416, 72-6418, 72-6419, 72-6420, 72-6422, 72-6423, 72-6424, 72-6427, 72-6429, 72-6432, 72-6436, 72-6437, 72-6444, 72-6446, 72-6447, 72-7105a and 72-8237 and K.S.A. 2009 Supp. 72-3715, 72-3716, 72-6405, 72-6407, 72-6409, 72-6410, 72-6412, 72-6413, 72-6414, 72-6414a, 72-6414b, 72-6415b, 72-6417, 72-6421, 72-6425, 72-6426, 72-6428, 72-6430, 72-6431, 72-6433, 72-6433d, 72-6434, 72-6434b, 72-6435, 72-6438, 72-6439, 72-6439a, 72-6441, 72-6442b, 72-6443, 72-6445a, 72-6448, 72-6449, 72-6450, 72-6451, 72-6452, 72-6453, 72-6454, 72-6455, 72-6456, 72-6457, 72-6458, 72-6459, 72-64b01, 72-64c01,

72-64c03, 72-64c04, 72-8238, 72-8248, 72-8249, 72-8250, 72-9509 and 72-9609, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Financial Institutions & Insurance: **HB 2501**.

Judiciary: **HB 2418**.

MESSAGE FROM THE GOVERNOR

January 8, 2010

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Mark Parkinson
Governor

Commissioner, State Corporation Commission, Thomas Wright, pursuant to the authority vested in me by KSA 74-601, effective upon the date of confirmation by the Senate, to serve a term of four years.

January 11, 2010

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Mark Parkinson
Governor

Secretary, Department of Commerce, William R. Thornton, pursuant to the authority vested in me by KSA 74-5002, effective upon the date of confirmation by the Senate, to serve at the Pleasure of the Governor.

January 21, 2010

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Mark Parkinson
Governor

State Librarian of Kansas, Joanne M. Budler, pursuant to the authority vested in me by KSA 75-2535, to be effective upon the date of confirmation by the Senate, to serve at the Pleasure of the Governor.

January 28, 2010

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Mark Parkinson
Governor

Member, Kansas Parole Board, Patricia Ann Biggs, pursuant to the authority vested in me by KSA 22-3707, effective upon the date of confirmation by the Senate, to serve a four year term expiring January 15, 2014.

Member, State Board of Indigent Services, Lawrence P. Daniels, pursuant to the authority vested in me by KSA 22-4519 et seq, effective upon the date of confirmation by the Senate, to serve a term of three years, expiring March 15, 2012.

Member, University of Kansas Hospital Authority, Mark R. Jorgenson, pursuant to the authority vested in me by KSA 76-3304, effective upon the date of confirmation by the Senate, to serve a four year term expiring March 15, 2012.

Member, Kansas Development Finance Authority, Audrey Langworthy, pursuant to the authority vested in me by KSA 74-8903, effective upon the date of confirmation by the Senate, to serve a term of three years expiring January 15, 2013.

Member, Public Employee Relations Board, Keith A. Lawing, pursuant to the authority vested in me by KSA 75-4323, effective upon the date of confirmation by the Senate, to serve a term of four years expiring March 15, 2013.

Member, State Banking Board, James Needham, pursuant to the authority vested in me by KSA 74-3004, effective upon the date of confirmation by the Senate, to serve a term of three years expiring March 15, 2012.

Administrator, Credit Union Council, John P. Smith, pursuant to the authority vested in me by KSA 17-2233, effective upon the date of confirmation by the Senate, to serve a four year term expiring December 31, 2013.

Member, Kansas Technology Enterprise Corporation, Steven F. Warren, pursuant to the authority vested in me by KSA 74-8101, effective upon the date of confirmation by the Senate, to serve a four year term expiring March 15, 2014.

Member, University of Kansas Hospital Authority, Deryl Wynn, pursuant to the authority vested in me by KSA 76-3304, effective upon the date of confirmation by the Senate, to serve a four year term expiring March 15, 2013.

February 3, 2010

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate is an appointment made by me as the Governor of the State of Kansas, pursuant to law.

Mark Parkinson
Governor

Member, Kansas State Board of Regents, A. E. McKechnie, pursuant to the authority vested in me by KSA 3202a, effective upon the date of confirmation by the Senate, to fulfill a term of four years expiring June 30, 2010.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2353**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2353, as follows:

On page 10, in line 1, by striking “of either .25%, .5%, .75% or 1%” and inserting “not to exceed 1% and shall be fixed in increments of .25%, and”;

On page 1, in the title, in line 10, before “amending” by inserting “certain rate limitations.”;

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

LES DONOVAN
DEREK SCHMIDT
TOM HOLLAND
Conferees on part of Senate

RICHARD CARLSON
JEFF KING
JULIE MENGHINI
Conferees on part of House

Senator Donovan moved the Senate adopt the Conference Committee Report on **S Sub for HB 2353**.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pilcher-Cook.

Absent or Not Voting: Steineger.

The Conference Committee report was adopted.

REPORTS OF STANDING COMMITTEES

Committee on **Financial Institutions and Insurance** recommends **SB 382** be amended on page 1, in line 29, after “building” by inserting “new houses or rehabilitating existing”; and the bill be passed as amended.

Also, **SB 414** be amended on page 12, in line 32, by striking “statute book” and inserting “Kansas register”; and the bill be passed as amended.

Committee on **Local Government** recommends **SB 464** 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 **SB 387** be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Teichman the following report was adopted:

Recommended **SB 380**, **SB 451** be passed.

SB 449; **HB 2414** be amended by adoption of the committee amendments, and the bills be passed as amended.

SCR 1625 be adopted.

SB 368 be amended by motion of Senator Pilcher-Cook on page 1, after line 14, by inserting the following:

“Section 1. K.S.A. 2009 Supp. 8-1014 is hereby amended to read as follows: 8-1014. (a) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person refuses a test, the division, pursuant to K.S.A. 8-1002, and amendments thereto, shall:

(1) On the person’s first occurrence, suspend the person’s driving privileges for one year and at the end of the suspension, restrict the person’s driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(2) on the person’s second occurrence, suspend the person’s driving privileges for two years;

(3) on the person’s third occurrence, suspend the person’s driving privileges for three years;

(4) on the person’s fourth occurrence, suspend the person’s driving privileges for 10 years; and

(5) on the person’s fifth or subsequent occurrence, revoke the person’s driving privileges permanently.

(b) (1) Except as provided by subsections (c) and (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state, the division shall:

(A) On the person’s first occurrence, suspend the person’s driving privileges for 30 days, then restrict the person’s driving privileges as provided by K.S.A. 8-1015, and amendments thereto, for an additional 330 days;

(B) on the person’s second, third or fourth occurrence, suspend the person’s driving privileges for one year and at the end of the suspension, restrict the person’s driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device; and

(C) on the person's fifth or subsequent occurrence, the person's driving privileges shall be permanently revoked.

(2) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person fails a test or has an alcohol or drug-related conviction in this state and the person's blood or breath alcohol concentration is .15 or greater, the division shall:

(A) On the person's first occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(B) on the person's second occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for two years to driving only a motor vehicle equipped with an ignition interlock device;

(C) on the person's third occurrence, suspend the person's driving privileges for one year and at the end of the suspension restrict the person's driving privileges for three years to driving only a motor vehicle equipped with an ignition interlock device;

(D) on the person's fourth occurrence, suspend the person's driving privileges for one year and at the end of the suspension, restrict the person's driving privileges for four years to driving only a motor vehicle equipped with an ignition interlock device; and

(E) on the person's fifth or subsequent occurrence, the person's driving privileges shall be permanently revoked.

~~(3) Whenever a person's driving privileges have been restricted to driving only a motor vehicle equipped with an ignition interlock device, proof of the installation of such device, for the entire restriction period, shall be provided to the division before the person's driving privileges are fully reinstated.~~

(c) Except as provided by subsection (e) and K.S.A. 8-2,142, and amendments thereto, if a person who is less than 21 years of age fails a test or has an alcohol or drug-related conviction in this state, the division shall:

(1) On the person's first occurrence, suspend the person's driving privileges for one year. If the person's blood or breath alcohol concentration is .15 or greater, the division shall at the end of the suspension, restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device;

(2) on the person's second and subsequent occurrences, penalties shall be imposed pursuant to subsection (b).

(d) Whenever the division is notified by an alcohol and drug safety action program that a person has failed to complete any alcohol and drug safety action education or treatment program ordered by a court for a conviction of a violation of K.S.A. 8-1567, and amendments thereto, the division shall suspend the person's driving privileges until the division receives notice of the person's completion of such program.

(e) Except as provided in K.S.A. 8-2,142, and amendments thereto, if a person's driving privileges are subject to suspension pursuant to this section for a test refusal, test failure or alcohol or drug-related conviction arising from the same arrest, the period of such suspension shall not exceed the longest applicable period authorized by subsection (a), (b) or (c), and such suspension periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of such suspension as authorized by subsection (a), (b) or (c), such person shall receive credit for any period of time for which such person's driving privileges were suspended while awaiting any hearing or final order authorized by this act.

If a person's driving privileges are subject to restriction pursuant to this section for a test failure or alcohol or drug-related conviction arising from the same arrest, the restriction periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of restriction, the person shall receive credit for any period of suspension imposed for a test refusal arising from the same arrest.

(f) If the division has taken action under subsection (a) for a test refusal or under subsection (b) or (c) for a test failure and such action is stayed pursuant to K.S.A. 8-259, and amendments thereto, or if temporary driving privileges are issued pursuant to K.S.A. 8-1020, and amendments thereto, the stay or temporary driving privileges shall not prevent the division from taking the action required by subsection (b) or (c) for an alcohol or drug-related conviction.

(g) Upon restricting a person's driving privileges pursuant to this section, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

(h) Any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business.

Sec. 2. K.S.A. 2009 Supp. 8-1015 is hereby amended to read as follows: 8-1015. (a) When subsection (b)(1) of K.S.A. 8-1014, and amendments thereto, requires or authorizes the division to place restrictions on a person's driving privileges, the division shall restrict the person's driving privileges to driving only under the circumstances provided by subsections (a)(1), (2), (3) and (4) of K.S.A. 8-292 and amendments thereto.

(b) In lieu of the restrictions set out in subsection (a), the division, upon request of the person whose driving privileges are to be restricted, may restrict the person's driving privileges to driving only a motor vehicle equipped with an ignition interlock device, approved by the division and obtained, installed and maintained at the person's expense. ~~Prior to issuing such restricted license, the division shall receive proof of the installation of such device.~~

(c) When a person has completed the one-year suspension pursuant to subsection (b)(2) of K.S.A. 8-1014, and amendments thereto, the division shall restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device, approved by the division and maintained at the person's expense. ~~Proof of the installation of such device, for the full year of the restricted period, shall be provided to the division before the person's driving privileges are fully reinstated.~~

(d) Upon expiration of the period of time for which restrictions are imposed pursuant to this section, the licensee may apply to the division for the return of any license previously surrendered by the licensee. If the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's driving privileges have been suspended or revoked prior to expiration.”;

And by renumbering the remaining sections accordingly;

On page 10, in line 35, by striking “is” and inserting “and K.S.A. 2009 Supp. 8-1014 and 8-1015 are”;

In the title, in line 9, after “concerning” by inserting “driving; relating to”; in line 10, after “Supp.” by inserting “8-1014, 8-1015 and”; also in line 10, by striking “section” and inserting “sections”, and **SB 368** be passed as amended.

SB 410 be amended by adoption of the committee amendments, be further amended by motion of Senator V. Schmidt on page 2, in line 4, after “credit” by inserting “or debit”;

In the title, in line 10, by striking “certain”; also in line 10, by striking “received by state agen-”; in line 11, by striking “cies”; also in line 11, after “imposing” by inserting “limitations,” and **SB 410** be passed as further amended.

SCR 1621 be passed over and retain a place on the calendar.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Wednesday, February 10, 2010.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*
PAT SAVILLE, *Secretary of the Senate.*

