

Journal of the Senate

THIRTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 12, 2014, 2:30 p.m.

The Senate was called to order by President Susan Wagle.

The roll was called with forty senators present.

The President introduced, Pastor Mark Hoover, New Spring Church, Wichita as the guest chaplain.

Invocation by Mark Hoover, a prayer originally delivered by U.S. Senate Chaplain, Peter Marshall.

“Our Father, remove from us the sophistication of our age and the skepticism that has come, like frost, to blight our faith and to make it weak. Bring us back to a faith that makes men great and strong, a faith that enables us to love and to live, the faith by which we are triumphalist, the faith by which alone we can walk with Thee.

We pray for a return of that simple faith, that old-fashioned faith, that made strong and great the homes of our ancestors who built this good land and who in building left us our heritage. In the strong name of Jesus, our Lord, we make this prayer.” Amen

The Pledge of Allegiance was led by President Susan Wagle.

POINT OF PERSONAL PRIVILEGE

Senator Masterson rose on a Point of Personal Privilege to introduce members of the Open World Leadership Center and the Friendship Force of Kansas. The mission of the Open World Leadership Center is to enhance understanding and capabilities for cooperation between the United States and the countries of Eurasia by developing a network of leaders in the region who have gained accountable government and it's free-market system.

Guests introduced were Ankica Agic, Marija Dasic, Tamara Glisic, Iva Radic, Dina Ratkin, Tatijana Bakraclic and Emese Purger-Kedmen.

Senators rose for a standing ovation.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 434, AN ACT concerning postsecondary education; enacting the SUCCESS act; making and concerning appropriations for fiscal years ending June 30, 2015, and June 30, 2016, for the state board of regents; amending K.S.A. 71-204 and 71-617 and repealing the existing sections, by Committee on Ways and Means.

SB 435, AN ACT concerning property tax; relating to exemptions; renewable energy resources or technologies; amending K.S.A. 2013 Supp. 79-201 and repealing the existing section, by Committee on Assessment and Taxation.

SB 436, AN ACT concerning elections; dealing with the Riley county law enforcement director; amending K.S.A. 19-4431 and repealing the existing section, by Committee on Federal and State Affairs.

SB 437, AN ACT concerning the uniform controlled substances act; relating to substances included in schedules I, III, and IV; amending K.S.A. 2013 Supp. 65-4105, 65-4109 and 65-4111 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 438, AN ACT concerning weapons; relating to the regulation and possession of firearms and knives; amending K.S.A. 2013 Supp. 12-16,124, 12-16,134, 12-4516, 12-4516a, 21-6301, 21-6304, 22-2512, 32-1047, 75-7c04 and 75-7c20 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 21-6307 and 75-7c12, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Utilities: **SB 433**.

CHANGE OF REFERENCE

The President withdrew **HB 2086** from the Committee on **Federal and State Affairs**, and rereferred the bill to the Committee on **Commerce**.

The President withdrew **SB 335** from the Committee on **Education**, and referred to the calendar under the heading of **General Orders**.

MESSAGE FROM THE HOUSE

The House nonconcurrs in Senate amendments to **S Sub HB 2338**, requests a conference and has appointed Representatives Rhoades, Kinzer and Henry as conferees on the part of the House.

REPORTS OF STANDING COMMITTEES

Committee on **Transportation** recommends **HB 2715**, as amended by House Committee of the Whole, be passed.

Also, **SB 301** 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 2470**, **HB 2544** be passed and, because the committee is of the opinion that the bills are of a noncontroversial nature, be placed on the consent calendar.

FINAL ACTION ON CONSENT CALENDAR

HB 2514 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, was considered on final action.

HB 2514, AN ACT concerning insolvent insurance companies; pertaining to certain exemptions for the federal home loan bank; amending K.S.A. 40-3609, 40-3619, 40-3625, 40-3629, 40-3630 and 40-3631 and repealing the existing sections.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 1; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wagle, Wolf.

Present and Passing: King.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 346, AN ACT concerning alcoholic beverages; dealing with microbreweries; amending K.S.A. 2013 Supp. 41-308b and repealing the existing section, was considered on final action.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wagle, Wolf.

The bill passed, as amended.

SB 362, AN ACT concerning the regulation of health care insurance navigators, was considered on final action.

On roll call, the vote was: Yeas 30; Nays 10; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Shultz, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, McGinn, Pettey, V. Schmidt.

The bill passed, as amended.

EXPLANATION OF VOTE

Madam President: I vote "No" on **SB 362**. Kansas had the prime opportunity to set up our own health care exchange when we were granted \$31.5 million from the Department of Health and Human Services under the careful tutelage of our own former Governor and now Secretary of the Department, Kathleen Sebelius. We, well at least the current Governor of Kansas, foolishly refused that appropriation and left Kansas in the lurch and at the mercy of a federally devised, to my mind "one-size-fits-all", health care exchange model. This model includes the description and definitions for the role of "navigators"; persons employed to connect the newly insured to an appropriate health insurance plan as required by the federal Patient Protection and Affordable Care Act (PPACA). This federal law (also now known as Obamacare) was passed by a majority of both chambers in the US Congress and was affirmed by the US Supreme Court as constitutional. Despite the remaining resistance that an increasingly smaller number of

Americans have to Obamacare (as more and more studies suggest that managing health care costs and connecting people to coverage are good for both the general economy and the personal wealth of our citizenry), most people are moving forward to comply with this law; as any law-abiding person would, whether they "like" the law...or not. Recently, I started the annual task of completing my tax returns; in order to comply with the US Code laws found and administered by the Internal Revenue Service (IRS). I engaged a paid professional to assist me; one who understands the laws. She is, in a way, "navigating" me through a set of laws and procedures I don't particularly like but, as a law-abiding citizen, am obliged to follow. SB 362 sets into play many additional, onerous and, in my opinion, unnecessary and potentially unconstitutional requirements for Navigators employed in Kansas to recruit and to inform and to enroll our citizenry into full compliance with the federal law sometimes known as "Obamacare." Attempts to restrict and to punish these but extensions of civil service are completely the wrong ways to express the waning displeasures with the PPACA. We should not take pot shots at the messenger. It's time, Madam President, for our society and its leadership to grow up on this issue and move on. Again, I applaud and express sincere appreciation to the hard-working men and women whom I have met who serve as Navigators and who are only trying to help all of our communities comply with the law. I proudly, in their honor, vote "No" on this petty little unconstitutional bill you all call **SB 362**.—DAVID HALEY

Madam President: **SB 362** is yet another blatant political bill brought to the Legislature by Americans for Prosperity. I oppose this bill for three basic reasons: First, this unnecessary bill does not protect Kansas consumers. Individuals referred to as "navigators" have been routinely used to assist consumers in accessing medical programs such as Medicare Part D and KanCare. Yet, this bill places onerous requirements only on navigators under the health care exchange. Second, it is universally opposed by health care and small business entities such as the Kansas Association for the Medically Underserved, American Cancer Society, Salina Family Health Center and the Wichita Independent Business Association. This bill is also opposed by the Republican Insurance Commissioner who is a health care expert in her own right. Third, the Senate is, again, ignoring independent experts in the health care field in favor of Americans for Prosperity which provides limitless support to its allies. This is just another reactionary, misguided and misinformed bill that will do nothing but subject our state to more litigation. I vote "No" on Senate Bill 362.—ANTHONY HENSLEY

Senator Faust-Goudeau and Senator Holland request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **SB 362**.

Madam President: **SB 362** sets up unnecessary and onerous requirements for people who have been trained and certified by the federal government to help our constituents navigate the federal marketplace in search of affordable health insurance. Many of these people have been providing similar services for our senior citizens enrolling in Medicare Part D and our Medicaid recipients in KanCare without these regulations and cost and without complaint. The state of Missouri passed a bill very much like **SB 362**. It ended up in court where a preliminary injunction was awarded preventing the state from enforcing the law. The court noted that "the plaintiff had already complied with federal licensure requirement. Additional state licensure requirements obstruct and

frustrate the federal government operation of the federal exchange, and thus are unconstitutional." Whether we like it or not, we cannot, and we know we cannot, preempt federal law. I vote "No" on **SB 362**.—LAURA KELLY

Senators Francisco, Haley, Hawk, Holland and Pettey request the record to show that they concur with the "Explanation of Vote" offered by Senator Kelly.

Madam President: I vote "No" on **SB 362** because it was opposed by the Wichita Independent Business Association and many safety net clinics across the state of Kansas. Many small businesses and safety net clinics have limited financial resources to help their clients find insurance. The healthcare assistance provided is not much different that the assistance for Medicare Part D enrollment, and yet the legislature did not impose special new fees and requirements on the organizations that provided that service. I don't think we should say that we support safety net clinics like GraceMed Health Clinic in Wichita and then vote to impose steep fees and other requirements on them. I would support background checks for healthcare navigators, but this bill goes far beyond background check requirements for similar professions. A similar law in Missouri was ruled unconstitutional.—CAROLYN MCGINN

Sub SB 394, AN ACT concerning children and minors; enacting the Kansas foster parents' bill of rights act; relating to foster care; family foster homes; amending K.S.A. 2013 Supp. 38-2212, 38-2213 and 38-2258 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 34; Nays 3; Present and Passing 3; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Francisco, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Hensley, Holland.

Present and Passing: Haley, Hawk, Kelly.

The bill passed as amended.

EXPLANATION OF VOTE

Madam President: I have served under three Governors in the Kansas Legislature and during that time "The Grandparents as Caregivers ACT" was passed into law giving grandparents \$200.00 per month, while giving foster parents \$600.00 per month. Another "Act" became law concerning Children relating to Grandparent Custody, Visitation and Residency Placement. There was also another Grandparents Bill that passed into law in 2012 to whereas as grandparent would receive strong consideration by the Courts regarding placement of grandchildren. Also, on July 1, 2012, our current governor signed into law a bill acknowledging grandparents as interested parties in a court room hearing pertaining to their grandchildren. And, even with these new laws, the feedback from members of the Kansas Silver Haired Legislature have said that grandparents are still being denied full acknowledgement in the court rooms, they are being denied the rights for their grandchildren to be placed with them, after meeting all the eligibility requirements, and passing a KBI investigation for placement, they are still being told they are too old for their grandchildren to live with them. Madam President, I

have the utmost respect and I commend foster families, for their willingness to provide temporary placement for children during a difficult time in their lives. I feel **SB 395** gives foster parents an unfair advantage over grandparents. For these reasons I respectfully vote "No" on **SB 394**. Senator Oletha Faust-Goudeau—OLETHA FAUST-GOUDEAU

Senators Hensley and Senator Holland request the record to show they concur with the "Explanation of Vote" offered by Senator Faust-Goudeau on **SB 394**.

S Sub HB 2154, AN ACT concerning cosmetology; relating to licensure and renewal of persons, salons and clinics; amending K.S.A. 65-1904a and K.S.A. 2013 Supp. 65-1904, 65-1904b, 65-1905, 65-1943, 65-1945 and 65-1950 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wagle, Wolf.

The bill passed, as amended.

HB 2172, AN ACT concerning cemetery corporations; amending K.S.A. 2013 Supp. 16-320, 16-321, 16-329, 17-1301c, 17-1311, 17-1312, 17-1312a and 17-1366 and repealing the existing sections, was considered on final action.

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

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wagle, Wolf.

The bill passed, as amended.

COMMITTEE OF THE WHOLE

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

On motion of Senator Smith the following report was adopted:

HB 2210 be passed.

A motion by Senator Haley to amend **HB 2210** failed and the following amendment was rejected: on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2013 Supp. 25-2430 is hereby amended to read as follows: 25-2430. (a) Electioneering is knowingly attempting to persuade or influence eligible voters to vote for or against a particular candidate, party or question submitted. Electioneering includes wearing, exhibiting or distributing labels, signs, posters, stickers or other materials that clearly identify a candidate in the election or clearly indicate support or opposition to a question submitted election within any polling place on election day or advance voting site during the time period allowed by law for casting

a ballot by advance voting or within a radius of ~~250~~ 25 feet from the entrance thereof. Electioneering shall not include bumper stickers affixed to a motor vehicle that is used to transport voters to a polling place or to an advance voting site for the purpose of voting.

(b) As used in this section, "advance voting site" means the central county election office or satellite advance voting sites designated as such pursuant to subsection (c) of K.S.A. 25-1122, and amendments thereto, and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in K.S.A. 2013 Supp. 25-2812, and amendments thereto.

(c) Electioneering is a class C misdemeanor.;

On page 2, in line 35, after "25-3304" by inserting "and K.S.A. 2013 Supp. 25-2430";
And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "electioneering;";
also in line 2, after "25-3304" by inserting "and K.S.A. 2013 Supp. 25-2430"

A motion by Senator Francisco to amend **HB 2210** failed and the following amendment was rejected: on page 1, in line 20, by striking ", 25-305"

A motion by Senator Francisco to amend **HB 2210** failed and the following amendment was rejected: on page 1, in line 21, after "results" by inserting "for such primary election"

A motion by Senator McGinn to amend **HB 2210** failed and the following amendment was rejected.: on page 1, in line 19, after "from" by inserting "7 days after"
Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 13; Nays 26; Present and Passing 0; Absent or Not Voting 1.

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

Nays: Abrams, Apple, Arpke, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Shultz, Smith, Tyson.

Absent or Not Voting: Wagle.

SB 316, SB 367 be amended by the adoption of the committee amendments, and the bills be passed as amended.

A motion by Senator Fitzgerald to amend **SB 367** failed and the following amendment was rejected: , on page 1, by striking all in lines 4 through 35; in line 36,

By striking all on page 2 and 3 and inserting:

"Section 1. Sections 1 through 11, and amendments thereto, shall be known and may be cited as the student and teacher data privacy act.

Sec. 2. As used in sections 1 through 11, and amendments thereto:

(a) "Biometric data" means one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual, such as fingerprints, retina and iris patterns, voice prints, DNA sequence, facial characteristics and handwriting.

(b) "Aggregate data" means data collected or reported at the group, cohort or institutional level.

(c) "De-identified data" means a student dataset in which personally identifiable information has been removed.

(d) "Department" means the state department of education.

(e) "Educational agency" means a school district, the department or a postsecondary educational institution.

(f) "Postsecondary educational institution" shall have the same meaning as that term is defined in K.S.A. 74-3201b, and amendments thereto.

(g) "School district" means a unified school district organized and operated under the laws of this state.

(h) "Statewide longitudinal student data system" means any student data system maintained by the department, which assigns a state identification number for each student who attends an accredited public or private school in Kansas and uses the state identification number to collect student data.

(i) "Personally identifiable information" includes:

(1) Parent, student or teacher identifying information, such as name, address or date of birth;

(2) a student's or teacher's state identification number; and

(3) any other information that, alone or in combination with other information, is connected to a specific student or teacher that would allow a reasonable person to identify a student or teacher with reasonable certainty.

(j) "State board" means the state board of education.

(k) "Student data" means data collected or reported at the individual student level in a student's educational record and includes, but is not limited to:

(1) State and national assessment results, including information on untested students;

(2) courses taken and completed, credits earned and other transcript information;

(3) course grades and grade point average;

(4) grade level and expected date of graduation;

(5) degree, diploma, credential attainment, and other school exit information such as general education development and drop-out data;

(6) attendance and mobility;

(7) data required to calculate the federal four-year adjusted cohort graduation rate, including sufficient exit and drop-out information;

(8) discipline reports limited to objective information sufficient to produce any reports that are required to receive federal title IV funding;

(9) remediation;

(10) special education data;

(11) demographic data such as date of birth, place of birth, residential address, social security numbers; and

(12) any other information included in a student's educational record.

(l) "Teacher data" means data collected or reported at the individual teacher level in a teacher's educational record and includes:

(1) Courses taken and completed in college, credits earned, date of graduation and other transcript information;

(2) courses and grade levels taught in K-12 schools;

(3) date of birth, place of birth, residential address or social security number;

(4) degree, diploma, credential attainment, and other teacher licensure information; and

(5) names and addresses of schools in which the teacher has taught.

Sec. 3. No school district shall collect biometric data from a student or teacher, or

use any device or mechanism to assess a student's or teacher's physiological or emotional state, unless the student, if an adult, or the parent or legal guardian of the student, if a minor, or the teacher first signs a written consent.

Sec. 4. (a) On and after July 1, 2014, neither the state board, the department, nor any other state agency shall:

(1) Expend any funds, whether from federal grants, funds provided by the American recovery and reinvestment act of 2009 (Pub. L. 111-5), funds appropriated from the state general fund or from any other source, on the construction, enhancement, or expansion of any state-wide longitudinal student data system; or

(2) share or provide access to any aggregate data compiled on students or teachers with any entity outside the state of Kansas, except as provided in subsection (b).

(b) The state board shall use only aggregate data in its reporting:

(1) To any federal agency, state or local agency inside or outside the state of Kansas, or any other in-state or out-of-state organization or entity;

(2) in its public reports; or

(3) in response to record requests.

(c) Only local school districts may compile personally identifiable student and nonacademic family information which is necessary either for administrative functions directly related to the student's education, for evaluation of academic programs and student progress, or for compliance with the requirements of the United States department of education as outlined in subsection (f).

(d) In compliance with K.S.A. 72-6214(b)(2), and amendments thereto, no personally identifiable student or teacher data shall be released to any local, state or federal agency, contractor or researcher by any local school district without first receiving the written consent of the student's parent or guardian or the affected teacher.

(e) (1) Except as provided by paragraph (2), any student and teacher data and de-identified data maintained by the department is confidential.

(2) A local school district may transfer student or teacher level data to any federal agency, state or local agency inside or outside the state of Kansas, or any other out-of-state organization or entity in the following circumstances:

(i) An adult student, a minor student's parent or guardian or a teacher first requests, in writing, that their personally identifiable data be transferred to an in-state or out-of-state school district or postsecondary educational institution;

(ii) a student or teacher registers for or takes a national assessment or certification test;

(iii) an adult student, a minor student's parent or guardian or a teacher voluntarily agrees in writing to participate in a program for which such a data transfer is a requirement of participation.

(f) Student or teacher aggregate data, but not personally identifiable, student-level or teacher-level data may be shared by a local school district, the state board or the department with the United States department of education only when:

(1) Such sharing or access provided is required by the United States department of education as a condition of receiving a federal education grant;

(2) the United States department of education agrees in writing to use the data only to evaluate the program or programs funded by the grant;

(3) the United States department of education agrees in writing that the data will not be used for any research beyond that related to evaluation of the program or

programs funded by the grant, unless the parent or guardian of any student, and any teacher, whose data will be used for such research affirmatively consents in writing to that use;

(4) the United States department of education agrees in writing to destroy or return to the state agency, local school district board, or educational agency all personally identifiable information in its custody upon request and at the termination of the contract. Destruction shall be compliant with the NISTPS800-88 standards of data destruction; and

(5) the grant or program in connection with which the data are required is one authorized by federal statute or by federal rule properly promulgated under the federal administrative procedure act, 5 U.S.C. § 500 et seq.

Sec. 5. No test, questionnaire, survey, or examination containing any questions about the student's personal beliefs or practices on issues such as sex, family life, morality and religion, or any questions about the student's parents' or guardians' beliefs and practices on issues such as sex, family life, morality, and religion, shall be administered to any student in kindergarten or grades one to 12, inclusive, unless the parent or guardian of the student is notified in writing that this test, questionnaire, survey or examination is to be administered and the parent or guardian of the student gives written permission for the student to take this test, questionnaire, survey, or examination.

Sec. 6. Any student results or a record of accomplishment shall be private, and may not be released to any person, other than the student's parent or guardian and a teacher, counselor or administrator directly involved with the student, without the express written consent of either the parent or guardian of the student if the student is a minor, or the student if the student has reached the age of majority or is emancipated.

Sec. 7. No test, examination, or assessment given as part of the statewide student assessment program shall contain any questions or items that solicit or invite disclosure of a student's or such student's parents' or legal guardians' personal beliefs or practices in sex, family life, morality or religion nor shall it contain any question designed to evaluate personal behavioral characteristics, including, but not limited to, honesty, integrity, sociability or self-esteem.

Sec. 8. Notwithstanding any other provision of law, a parent's or guardian's written request to school officials to excuse such parent's or legal guardian's child from any or all parts of the Kansas state assessments shall be granted.

Sec. 9. (a) State agencies, local school boards and institutions shall not disclose personally identifiable information from education records or teacher records without the prior written consent of parents or eligible students or of the affected teachers, to a contractor, consultant, or other party to whom the state agency, school board, or institution has outsourced institutional services or functions. If and when written consent is provided by the research subjects, the outside party must certify in writing that it:

(1) Performs an institutional service or function for which the state agency, school board, or institution would otherwise use its employees;

(2) is under the direct control of the state agency, school board, or institution with respect to the use and maintenance of education records or teacher records;

(3) limits internal access to education records or teacher records to those individuals who require access to those records for completion of the contract;

(4) does not use the education records or teacher records for any purposes other than those explicitly authorized in the contract;

(5) does not disclose any personally identifiable information from education records or teacher records to any other party:

(A) Without the written consent of the parent or eligible student, or the affected teacher; or

(B) unless required by statute or court order and the party provides a notice of the disclosure to the state agency, school board or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;

(6) maintains reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of the personally identifiable student or teacher data in its custody;

(7) uses encryption technologies to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the secretary of the United States department of health and human services in guidance issued under section 13402(H)(2) of the American recovery and reinvestment act (Pub. L. 111-5);

(8) has sufficient administrative and technical procedures to monitor continuously the security of personally identifiable student or teacher data in its custody;

(9) conducts a security audit annually and provides the results of that audit to each state agency, school board or institution that provides education records or teacher records;

(10) provides the state agency, school board or institution with a breach-remediation plan acceptable to the state agency, school board, or institution before initial receipt of education records or teacher records. Results of these audits need to be accessible by the parents or legal guardians of the students or teachers;

(11) reports all suspected security breaches to the state agency, school board or institution that provided education records or teacher records as soon as possible but not later than 48 hours after a suspected breach was known or would have been known by exercising reasonable diligence, as well as parents or legal guardians of students or any other victim connected with the suspected security breach;

(12) reports all actual security breaches to the state agency, school board or institution that provided education records as soon as possible but not later than 24 hours after an actual breach was known or would have been known by exercising reasonable diligence and reports such breach to the parents or legal guardians of students, affected teachers or any other victim connected with the suspected security breach;

(13) in the event of a security breach or unauthorized disclosure of personally identifiable information, pays all costs and liabilities incurred by the state agency, school board or institution related to the security breach or unauthorized disclosure, including, but not limited to, the costs of responding to inquiries about the security breach or unauthorized disclosure, of notifying subjects of personally identifiable information about the breach, of mitigating the effects of the breach for the subjects of the personally identifiable information and of investigating the cause or consequences of the security breach or unauthorized disclosure; and

(14) destroys or returns to the state agency, school board or institution all

personally identifiable information in its custody upon request and at the termination of the contract. Destruction shall be compliant with the NISTPS800-88 standards of data destructions.

Sec. 10. In the event of a security breach or unauthorized disclosure of personally identifiable student or teacher data, whether by a state agency, school board or educational institutional, or by a third party given access to education records or teacher records, the state board, department, state agency, local school board or educational institution shall:

- (a) Immediately notify the subjects of the breach or disclosure;
- (b) report the breach or disclosure to the family policy compliance office of the United States department of education; and
- (c) investigate the causes and consequences of the breach or disclosure.

Sec. 11. The attorney general or any district attorney may enforce the provisions of sections 1 through 10, and amendments thereto, by investigating and bringing an action in a court of competent jurisdiction, and may seek injunctive relief to enjoin any educational agency, any employee or agent thereof, or any other entity in possession of student or teacher data from disclosing any student or teacher data in violation of the provisions of sections 1 through 10, and amendments thereto. To carry out such investigation, the attorney general or any deputy or assistant attorney general is authorized to subpoena witnesses, compel their attendance, examine them under oath, and require that any books, records, documents, papers, or electronic records relevant to the inquiry be turned over for inspection, examination, or audit.

Sec. 12. This act shall take effect and be in force from and after its publication publication in the statute book.";

On page 1, in the title, in line 1, after "student" by inserting "and teacher"

The committee report on **SCR 1618** recommending a **Sub SCR 1618** be adopted, be amended by motion of Senator Ostmeyer: on page 1, in line 18, by striking ", as defined by law,"; in line 24, by striking "slot" and inserting "vending" and **Sub SCR 1618** be adopted as amended.

SB 334 be amended by adoption of the committee amendments, be further amended by motion of Senator Apple, on page 5, in line 10, by striking "of social and rehabilitation" and inserting "for aging and disability";

On page 6, in line 14, after "means" by inserting ": (A)"; in line 19, after "thereto" by inserting "; and (B) an employee of a contractor who is under contract to provide services to the Kansas department for aging and disability services working at any such institution or facility" and **SB 334** be passed as further amended.

Vice President King assumed the chair.

EMERGENCY FINAL ACTION

On motion of Senator Bruce, an emergency was declared by a 2/3 constitutional majority, and **SB 316**, **SB 334**, **SB 367**, **HB 2210** and **Sub SCR 1618** were advanced advanced to Final Action and roll call.

SB 316, AN ACT concerning public health; relating to the podiatry act; amending K.S.A. 65-2001, 65-2002 and 65-2004 and K.S.A. 2013 Supp. 65-2005 and repealing the existing sections.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wolf.

Absent or Not Voting: Wagle.

The bill passed, as amended.

SB 334, AN ACT concerning crimes and punishment; relating to interference with law enforcement; battery; amending K.S.A. 2013 Supp. 21-5413 and 21-5904 and repealing the existing sections.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wolf.

Absent or Not Voting: Wagle.

The bill passed, as amended.

SB 367, AN ACT concerning schools; creating the student data privacy act.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Shultz, Smith, Tyson, Wolf.

Absent or Not Voting: Wagle.

The bill passed, as amended.

HB 2210, AN ACT concerning elections; relating to change of party affiliation; when not permissible; amending K.S.A. 25-3301 and 25-3304 and repealing the existing sections.

On roll call, the vote was: Yeas 27; Nays 12; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Shultz, Smith, Tyson.

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

Absent or Not Voting: Wagle.

The bill passed.

SCR 1618, A PROPOSITION to amend article 15 of the constitution of the state of Kansas by adding a new section thereto, authorizing the legislature to permit the conduct of charitable raffles by certain nonprofit organizations.

On roll call, the vote was: Yeas 35; Nays 0; Present and Passing 4; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, V. Schmidt, Shultz, Tyson, Wolf.

Present and Passing: Arpke, Masterson, Pyle, Smith.

Absent or Not Voting: Wagle.

By a 2/3 majority, the resolution was adopted, as amended.

On motion of Senator Bruce, the Senate adjourned until 2:30 p.m., Thursday, March 13, 2014.

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

