

# Journal of the Senate

THIRTY-SECOND DAY

---

SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, February 21, 2007—2:30 p.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with forty senators present.  
President Morris introduced as guest chaplain, Reverend Daniel Dermeyer, PastorServe of Olathe, Kansas, who delivered the invocation:

Light of the World, You shine out into darkness.

Open our eyes, let us see.

Show us what is right and true, what is merciful and just.

Remind us again that you are both strong and loving.

Lord God, when we woke up this morning you were already at work,

Inviting us to join in with the work you give us.

You have taught those who follow you to work well, to do good, to love righteousness and mercy, to walk humbly with you—so that still others will turn to you in gratitude and offer You the praise You deserve.

As this body begins its deliberations, men and women merely continue work already begun.

Now, in this hour we pray for Your Guidance. Let words be deliberate, for good alone. Keep those who speak from saying words that they should not. Help them to say words that build up and not tear down. Stop ears from hearing words of discouragement, disdain and despair.

Grant this body hearts that think well of one another, that do not keep record of wrongs, that are not rude nor self-seeking, that go the extra distance to help govern better.

Lord what I truly ask is that, that love that You alone have shown in Jesus would illumine, empower and guide those who are gathered today.

It is in His name I pray, for His glory, which will be for the good of all people.

Amen

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **HB 2004**.

Elections and Local Government: **HB 2280**.

Federal and State Affairs: **SB 360; HB 2249, HB 2268, HB 2293, HB 2295**.

Ways and Means: **SB 361**.

## MESSAGE FROM THE HOUSE

Announcing passage of **HB 2096; Substitute HB 2129; HB 2140, HB 2202, HB 2294**.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2096; Substitute HB 2129; HB 2140, HB 2202, HB 2294** were thereupon introduced and read by title.

**ORIGINAL MOTION**

Having voted on the prevailing side in Committee of the Whole on Tuesday, February 20, 2007, Senator Lee moved to reconsider action on **SB 61**, and return the bill to the calendar under the heading of General Orders. Motion carried.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**SB 23**, An act concerning the teacher service scholarship program; amending K.S.A. 2006 Supp. 74-32,101, 74-32,102, 74-32,103 and 74-32,105 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 74-32,186 through 74-32,193, 74-32,201 through 74-32,208 and 74-32,211 through 74-32,218, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 68**, An act concerning school districts; relating to school finance; amending K.S.A. 2006 Supp. 72-6407 and 72-6454 and repealing the existing sections, was considered on final action.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Journey, Pyle, Schmidt D, Taddiken.

The bill passed, as amended.

**SB 183**, An act concerning the uniform commercial code; general provisions; amending K.S.A. 16-1501, 50-682, 58-241, 60-1007, 60-2409, 61-3703, 84-2-202, 84-2a-501, 84-2a-518, 84-2a-519, 84-2a-527, 84-2a-528, 84-4-104, 84-4a-105, 84-4a-106, 84-4a-204, 84-5-103 and 84-8-102 and K.S.A. 2006 Supp. 16-1603, 16-1616, 84-2-103, 84-2a-103 and 84-9-102 and repealing the existing sections; also repealing K.S.A. 84-1-101, 84-1-102, 84-1-103, 84-1-104, 84-1-106, 84-1-107, 84-1-108, 84-1-109, 84-1-202, 84-1-203, 84-1-204, 84-1-205, 84-1-206, 84-1-207, 84-1-208, 84-1-209, 84-2-208 and 84-2a-207 and K.S.A. 2006 Supp. 84-1-105, 84-1-201 and 84-3-103, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 201**, An act concerning restrictions on persons maintaining or residing, working or volunteering at child care facilities or family day care homes; amending K.S.A. 2006 Supp. 65-516 and repealing the existing section; also repealing K.S.A. 2006 Supp. 65-516a, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 202**, An act concerning child care facilities; relating to definitions; amending K.S.A. 65-503 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 244**, An act concerning funeral picketing; amending K.S.A. 21-4015 and 60-2102 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. PRESIDENT: As the father of four young children, I am often offended by the obscene and grotesque nature of certain protests in Topeka. Similarly, I am also disturbed and embarrassed by the desire of many of the same individuals to disrupt funerals across this state and nation.

Families and friends attending funerals and memorial services of their loved ones deserve the right to participate in these events without undue disruption or opposition. **SB 244** clearly protects this sacred right while not violating the First Amendment of the Constitution.—TIM HUELSKAMP

Senator Journey requests the record to show he concurs with the "Explanation of Vote" offered by Senator Huelskamp on **SB 244**.

**SB 284**, An act concerning the radiologic technologists practice act; amending K.S.A. 2006 Supp. 65-7305 and repealing the existing sections; also repealing K.S.A. 2006 Supp. 65-7306, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

**SB 285**, An act concerning the healing arts act; prohibiting billing for anatomic pathology services in certain circumstances; amending K.S.A. 2006 Supp. 65-2837 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

**SB 308**, An act concerning the uniform commercial code; relating to documents of title; amending K.S.A. 21-3736, 21-3737, 84-2-104, 84-2-310, 84-2-323, 84-2-401, 84-2-503, 84-2-505, 84-2-506, 84-2-509, 84-2-605, 84-2-705, 84-2a-514, 84-2a-526 and 84-4-104 and K.S.A. 2006 Supp. 16-1616, 84-1-201, 84-2-103, 84-2a-103, 84-4-210, 84-8-103, 84-9-102, 84-9-201, 84-9-203, 84-9-207, 84-9-208, 84-9-301, 84-9-310, 84-9-312, 84-9-313, 84-9-314,

84-9-317, 84-9-338 and 84-9-601 and repealing the existing sections; also repealing K.S.A. 84-7-101 through 84-7-105, 84-7-201 through 84-7-210, 84-7-301 through 84-7-309, 84-7-401 through 84-7-404, 84-7-501, 84-7-502, 84-7-504 through 84-7-509, 84-7-601, 84-7-602 and 84-7-603 and K.S.A. 2006 Supp. 84-7-503, 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: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.  
The bill passed.

#### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 262** be amended on page 1, after line 17, by inserting the following:

“(b) The provisions of subsection (a) shall not apply to the following: (1) The purchase of diesel fueled vehicles; (2) vehicles purchased in conformity with federal requirements; or (3) vehicles purchased for the Kansas highway patrol.

(c) Whenever a state agency leases a motor vehicle, the state agency shall lease a motor vehicle that utilizes E85 fuels unless no suitable vehicle that utilizes E85 fuels is available for lease.”;

Also on page 1, in line 18, by striking “(b)” and inserting “(d)”; after line 19, by inserting the following:

“(e) With the approval of the head of the purchasing state agency, a state agency may purchase a motor vehicle which utilizes E85 fuels even though the cost is \$250 or more than the cost of such a vehicle that does not utilize E85 fuels.”;

Also on page 1, in the title, in line 9, after “purchases” by inserting “and leases”; and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **SB 240** be passed.

Also, **SB 278** be amended on page 7, in line 2, after “is” by inserting “portable or is”; in line 3, by striking all after “ment”; by striking all in lines 4, 5 and 6; in line 7, by striking all before the period; in line 8, by striking “, but is not limited to, soil” and inserting “the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil”; and the bill be passed as amended.

Committee on **Commerce** recommends **SB 316** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 316,” as follows:

“Substitute for SENATE BILL No. 316

By Committee on Commerce

“AN ACT concerning economic development; relating to tax increment financing and sales tax and revenue bonds; establishing the STAR bond act; amending K.S.A. 12-1770 and 12-1776 and K.S.A. 2006 Supp. 12-1770a, 12-1771, 12-1771b, 12-1773, 12-1774 and 12-1774a and repealing the existing sections; also repealing K.S.A. 2006 Supp. 12-1773, as amended by section 3 of chapter 192 of the 2006 Session Laws of Kansas and K.S.A. 2006 Supp. 12-1771d, 12-1780b, 12-1780c, 12-1780d, 12-1780e and 12-1780f.”;  
and the substitute bill be passed.

Also, **SB 193** be amended on page 1, in line 13, by striking “on” and inserting “with respect to”; also in line 13, by striking “state debt” and inserting “the borrowing of money for the state and state agencies”; in line 14, following “residents” by inserting “of the state”; in line 15, by striking “continue to”; in line 16, by striking “state debt” and inserting “future borrowing”; in line 17, by striking “meet its total” and inserting “identify expected sources of payment to meet”; in line 18, by striking “in light of” and inserting “and accommodate”; in line 20, by striking “debt” and inserting “bonds and notes for the benefit of the state and state agencies”; also in line 20, by striking all following the period; by striking all in lines 21 through 32; in line 33, following “Kansas” by inserting “department of administration and the Kansas”; also in line 33, following “authority” by inserting “jointly”; also in line 33, by striking “a debt”; in line 34, by striking all preceding the period and inserting “an affordability report each year to assist the governor and the legislature in setting priorities

among capital projects and related appropriations”; in line 35, by striking “additional state debt” and inserting “bonds and notes supported by the state general fund”; in line 36, by striking all following “the” where it appears for the first time; in line 37, by striking all preceding the period and inserting “report”; in line 38, by striking all following “The”; in line 39, by striking “a debt”; also in line 39, by striking “, to” and inserting “shall”;

On page 2, in line 2, by striking all following “state”; in line 3, by striking all preceding the period and inserting “bonds and notes supported by appropriations from the state general fund during the next budget year”; in line 6, by striking all following “of”; in line 7, by striking all preceding the period and inserting “all bonds and notes outstanding secured by appropriations from the state general fund and other bonds and notes secured by other funds and revenues of the state and state agencies”; in line 8, by striking “revenues” and inserting “funds”; also in line 8, following “available” by inserting “in the state general fund”; in line 9, by striking all following “service”; in line 10, by striking all preceding the period and inserting “on bonds or notes supported by appropriations from the state general fund, plus any additional funds or revenues that may specifically be pledged through appropriations to pay debt service”; in line 11, by striking all following “(3)”; in line 12, by striking all preceding the period and inserting “The provisions of a 10 year capital improvements plan for state agencies”; in line 14, by striking all following the comma; by striking all in line 15; in line 16, by striking all preceding the period and inserting “with respect to all bonds or notes supported by appropriations from the state general fund”; in line 17, by striking “general obligation”; in line 19, by striking all following “service” where it appears the first time; by striking all in line 20; in line 21, by striking all preceding the period and inserting “on all bonds and notes for the benefit of the state and state agencies to funds available to pay debt service, debt service on all bonds and notes for the benefit of the state and state agencies compared to personal income and the per capita amount of aggregate principal amount of outstanding bonds and notes for the benefit of the state and state agencies”; in line 22, by striking all following “(7)”; by striking all in lines 23 and 24; in line 25, by striking “(8)”; in line 26, by striking “10 most populous” and inserting “contiguous”; in line 27, following “Kansas” by inserting “department of administration and the Kansas”; in line 30, by striking “issuing debt secured by state revenues” and inserting “authorized or seeking authorization to issue bonds or notes secured by appropriations from the state general fund”; in line 33, by striking all following “any” and inserting “bonds or notes or the authorization of such bonds or notes.”;

On page 1, in the title, in line 9, by striking “the state debt” and inserting “borrowings for the state and state agencies”; and the bill be passed as amended.

Committee on **Education** recommends **SB 129** be amended on page 1, by striking all in lines 13 through 43;

On page 2, by striking all in lines 1 through 38 and inserting the following:

“Section 1. K.S.A. 72-89c01 is hereby amended to read as follows: 72-89c01. As used in K.S.A. 72-89c01 and 72-89c02, and amendments thereto:

(a) “Board of education” means the board of education of a unified school district or the governing authority of an accredited nonpublic school.

(b) “School” means a public school or an accredited nonpublic school.

(c) “Public school” means a school operated by a unified school district organized under the laws of this state.

(d) “Accredited nonpublic school” means a nonpublic school participating in the quality performance accreditation system.

(e) “Chief administrative officer of a school” means, in the case of a public school, the superintendent of schools or a designee of the superintendent and, in the case of an accredited nonpublic school, the person designated as chief administrative officer by the governing authority of the school.

(f) “Weapon” means (1) any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any weapon described in the preceding example; (3) any firearm muffler or firearm silencer; (4) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than ¼ ounce, (E) mine, or (F) similar device; (5) any weapon which will,

or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than ½ inch in diameter; (6) any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled; (7) any bludgeon, sandclub, metal knuckles or throwing star; (8) any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; (9) any electronic device designed to discharge immobilizing levels of electricity, commonly known as a stun gun. The term “weapon” does not include within its meaning (1) an antique firearm; (2) any device which is neither designed nor redesigned for use as a weapon; (3) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; (4) surplus ordinance sold, loaned, or given by the secretary of the army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; (5) class C common fireworks.

(g) “Controlled substance” has the meaning ascribed thereto in K.S.A. 65-4101, and amendments thereto.

(h) “Illegal drug” means a controlled substance but does not include ~~such~~ a controlled substance that is legally possessed ~~or~~, used under the supervision of a licensed health-care professional ~~or that is legally possessed~~ or used under authority of any federal or state law.

(i) “Possession of a weapon, ~~controlled substance~~ or illegal drug” means knowingly having direct physical control over a weapon, ~~controlled substance~~ or illegal drug or knowingly having the power and the intention at a given time to exercise dominion or control over a weapon, ~~controlled substance~~ or illegal drug.

(j) “School safety violation” means: (1) *The possession of a weapon or illegal drug at school, upon school property or at a school-supervised activity; or (2) an act or behavior committed at school, upon school property or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others.*

(k) “Law enforcement agency” means *the police department of a city if the school safety violation occurs within the corporate limits of a city or the office of the county sheriff if the school safety violation occurs outside the corporate limits of a city.*

(l) “Division” means *the division of motor vehicles of the Kansas department of revenue.*

Sec. 2. K.S.A. 72-89c02 is hereby amended to read as follows: 72-89c02. (a) ~~Whenever a pupil who has attained the age of 13 years has been found in possession of a weapon, controlled substance or illegal drug at school, upon school property, or at a school-supervised activity or has engaged in behavior at school, upon school property, or at a school-supervised activity, which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the chief administrative officer of the school shall make an immediate report of the pupil’s act to the appropriate law enforcement agency. Upon receipt of the report, the law enforcement agency shall investigate the matter and give written notice to the division of vehicles of the department of revenue of the act committed by the pupil. The notice shall be given to the division of vehicles by the law enforcement agency within three days, excluding holidays and weekends, after receipt of the report and shall include the pupil’s name, address, date of birth, driver’s license number, if available, and a description of the act committed by the pupil. Upon receipt of the notice~~ *Whenever a pupil who has attained the age of 13 years has been expelled from school or suspended for an extended term in accordance with K.S.A. 72-8901 et seq. or 72-89a01 et seq., and amendments thereto, and such suspension or expulsion was imposed for committing a school safety violation, the chief administrative officer of the school from which the student was suspended or expelled shall notify the appropriate law enforcement agency of the suspension or expulsion. The notice shall be given within 10 days, excluding holidays and weekends, after the imposition of the expulsion or suspension. The notice shall include the pupil’s name, address, date of birth, driver’s license number, if available, a description of the school safety violation committed by the pupil and the date the pupil was expelled or suspended for an extended term. Following receipt of the notice, the law enforcement agency shall notify the division of the*

suspension or expulsion. The notice shall be given within 10 days, excluding holidays and weekends, of the date of receipt of notice from the chief administrative officer of the school from which the student was suspended or expelled. The notice shall include the pupil's name, address, date of birth, driver's license number, if available, a description of the school safety violation committed by the pupil and the date the pupil was expelled or suspended for an extended term. A copy of the notice also shall be given to the pupil and to the parent or guardian of the pupil.

(b) If timely notice is given to the appropriate law enforcement agency and the division as specified in subsection (a), the division of vehicles immediately shall suspend the pupil's driver's license or privilege to operate a motor vehicle on the streets and highways of this state. The duration of the suspension shall be for a period of one year. Upon expiration of the period of suspension, the pupil may apply to the division for return of the license. If the license has expired, the pupil may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the pupil's privilege to operate a motor vehicle is in effect. If the pupil does not have a driver's license, the pupil's driving privileges shall be revoked. If timely notice is given to the appropriate law enforcement agency and the division as required by subsection (a), no Kansas driver's license shall be issued to a pupil whose driving privileges have been revoked pursuant to this subsection for a period of one year:

(1) Immediately following the date of receipt by the division of notification from a law enforcement agency containing the description of the pupil's act, if the pupil is eligible to apply for a driver's license; or

(2) after the date the pupil will be eligible to apply for a driver's license, if the pupil is not eligible to apply for a driver's license on the date of receipt of the notification.

~~(b)~~ (c) If the pupil's driving privileges have been revoked, suspended or canceled for another cause, the suspension or revocation required by this section shall apply consecutively to the previous revocation, suspension or cancellation.

~~(c)~~ (d) Upon suspension or revocation of a pupil's privilege to operate a motor vehicle as provided in this section, the division of vehicles shall immediately notify the pupil in writing. If the pupil makes a written request for hearing within 30 days after such notice of suspension or revocation, the division of vehicles shall afford the pupil an opportunity for a hearing as provided by K.S.A. 8-255, and amendments thereto, except that the scope of the hearing shall be limited to determination of whether there are reasonable grounds to believe the pupil was in possession of a weapon, controlled substance or illegal drug at school, upon school property, or at a school-supervised activity or was engaged in behavior at school, upon school property, or at a school-supervised activity, which resulted in, or was substantially likely to have resulted in, serious bodily injury to others notice was given to the appropriate law enforcement agency and the division within the time specified in subsection (a).

~~(d)~~ (e) For the purposes of this section, the term driver's license includes, in addition to any commercial driver's license and any class A, B, C or M driver's license, any restricted license issued under K.S.A. 8-237, and amendments thereto, any instruction permit issued under K.S.A. 8-239, and amendments thereto, and any farm permit issued under K.S.A. 8-296, and amendments thereto.

Sec. 3. K.S.A. 72-89c01 and 72-89c02 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 10, following “K.S.A.” by inserting “72-89c01 and”; also in line 10, by striking “section” and inserting “sections”; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **SB 226** be amended on page 1, in line 17, by striking all after the period; in line 18, by striking all before “governing” and inserting “The”; in line 20, by striking “The board of county commis-”; in line 21, by striking all before “to” where it appears for the second time and inserting “no retailer's license shall be issued”; in line 42, by striking all after “(8)”; by striking all in line 43;

On page 2, by striking all in lines 1 through 5; in line 6, by striking “(9)”; in line 9, by striking “(10)” and inserting “(9)”; in line 11, by striking “(10)” and inserting “(9)”; in line 13, by striking “(11)” and inserting “(10)”; following line 16, by inserting:

“(c) After examination of an application for a retailer’s license, the board of county commissioners or the governing body of a city may deny a license to a person, partnership or corporation if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25% of the stock, of a corporation which has:

- (1) Had a retailer’s license revoked under K.S.A. 41-2708 and amendments thereto; or
- (2) been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.”;

Also on page 2, in line 17, by striking “(c)” and inserting “(d)”;

On page 3, in line 23, by striking all after the period; by striking all in lines 24 through 26; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 271** be amended on page 3, in line 40, after the period by inserting “Notwithstanding the “large risk” filing exemption in subsection (j), a certificate of insurance cannot be used to modify, alter or amend the insurance policy it describes.”; in line 43, by striking “A certificate of insurance”;

On page 4, by striking all in lines 1 and 2 and inserting “An industry standard setting organization may be authorized by the commissioner of insurance to file certificate of insurance forms on behalf of authorized insurers.”; in line 19, by striking “this act” where it appears for the last time and inserting “K.S.A. 40-954, and amendments thereto”; in line 21, by striking all before “within”; also in line 21, by striking “Eli-”; by striking all in line 22; in line 23, by striking all before “Personal” and inserting “If more than one workers compensation loss cost multiplier is filed by an insurer, each loss cost multiplier filed in addition to the initial loss cost multiplier filed by such insurer shall require approval by the commissioner of insurance prior to its use.”; and the bill be passed as amended.

Committee on **Health Care Strategies** recommends **SB 323** be amended by substituting a new bill to be designated as “Substitute for SENATE BILL No. 323,” as follows:

“Substitute for SENATE BILL No. 323

By Committee on Health Care Strategies

“AN ACT related to the Kansas health policy authority; recovery and reimbursement from third parties on medicaid.”;

and the substitute bill be passed.

Committee on **Judiciary** recommends **SB 133** be amended on page 1, in line 13, preceding the colon by inserting “, with intent to impede, obstruct or influence the election process”; in line 14, by striking “any” and inserting “another person’s” in line 15, by striking all following the comma; in line 16, by striking all preceding the semicolon and inserting “unless such registered voter consents in writing to such destruction or alteration”; in line 20, by striking “as directed by the voter” and inserting “or before the close of polls on election day, whichever first occurs”; in line 24, by striking “transmitting” and inserting “delivering”; following line 27, by inserting the following:

“(g) Delivering an advance voting ballot to the United States mail, with first-class postage attached, at least five calendar days prior to election day for delivery to the county election officer shall not be a violation of this section.

(h) As used in this section:

(1) “Undue influence” means coercion, compulsion or restraint as to diminish the voter’s free agency, and by overcoming the power of resistance, obliges or causes such voter to adopt the will of another; and

(2) “deliver” means hand-deliver, mail or otherwise transmit an advance voting ballot.”;

And the bill be passed as amended.

Also, **SB 270** be amended on page 1, by striking all in lines 14 through 25;

And by renumbering sections accordingly;

On page 3, in line 37, by striking “; or” and inserting a period; by striking all in lines 38 through 43;

On page 4, by striking all in lines 1 through 11; in line 12, by striking “(m)” and inserting “(l)”;

in line 17, before “A”, by inserting “(m)”;

On page 5, by striking all in lines 24 through 35;



And by renumbering sections accordingly;

On page 6, in line 14, after “than”, by inserting “3.6 grams in any single transaction or more than”; also in line 14, by striking all after “grams”; by striking all in line 15, and inserting “within any thirty-day period”; in line 17, by striking “, within any thirty-day period”; in line 26, by striking “, 65-4166”;

In the title, in line 10, by striking “, 65-”; in line 11, by striking “4166”; and the bill be passed as amended.

**SB 324** be amended on page 1, following the enacting clause by inserting the following:  
 “Section 1. K.S.A. 17-1311a is hereby amended to read as follows: 17-1311a. (a) Misuse of the permanent maintenance fund or any money belonging thereto is using, lending or permitting another to use, moneys in the fund in a manner not authorized by law, by a custodian or other person having charge or control of such fund or moneys by virtue of his position.

(b) Misuse of the permanent maintenance fund is a ~~class-D~~ *severity level 7, nonperson* felony.

Sec. 2. K.S.A. 65-28,107 is hereby amended to read as follows: 65-28,107. (a) An attending physician who refuses to comply with the declaration of a qualified patient pursuant to this act shall effect the transfer of the qualified patient to another physician. Failure of an attending physician to comply with the declaration of a qualified patient and to effect the transfer of the qualified patient shall constitute unprofessional conduct as defined in K.S.A. 65-2837, *and amendments thereto*.

(b) Any person who willfully conceals, cancels, defaces, obliterates or damages the declaration of another without such declarant’s consent or who falsifies or forges a revocation of the declaration of another shall be guilty of a class *A person* misdemeanor.

(c) Any person who falsifies or forges the declaration of another, or willfully conceals or withholds personal knowledge of the revocation of a declaration, with the intent to cause a withholding or withdrawal of life-sustaining procedures contrary to the wishes of the declarant, and thereby, because of such act, directly causes life-sustaining procedures to be withheld or withdrawn and death to be hastened, shall be guilty of a ~~class-E~~ *severity level 7 person* felony.”;

By renumbering the remaining sections accordingly;

In the title, in line 9, by striking all following “ACT”; in line 10, by striking “and 75-7b19”; also in line 10, preceding the period by inserting “; relating to certain penalties; amending K.S.A. 17-1311a and 65-28,107 and repealing the existing sections; also repealing K.S.A. 21-3727, 47-604, 66-276 and 75-7b19”; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **SB 302** be passed.

Also, **SB 243** be amended on page 2, in line 1, by striking “25” and inserting “26”; in line 2, by striking “25” and inserting “26”;

On page 4, in line 14, by striking “an unmarried” and inserting “a”; in line 16, by striking “unmarried”; also in line 16, by striking “25” and inserting “26”; in line 18, by striking “section 1” and inserting “K.S.A. 40-2118,”; following line 33, by inserting the following:

“New Sec. 3. Notwithstanding any other provision of law to the contrary, whenever the term “dependent” appears in any group policy or contract of any health and accident insurance of any kind delivered, issued, offered for sale, sold or renewed in this state, the term dependent shall have the meaning ascribed to it in K.S.A. 40-2118, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

And the bill be passed as amended.

Committee on **Transportation** recommends **SB 77** be amended on page 1, after line 41, by inserting the following:

“(h) A law enforcement officer, and the state or any political subdivision of the state that employs a law enforcement officer, who observes a child left unattended and unsupervised in a motor vehicle who uses means that are reasonably necessary to protect the child in removing such child from the motor vehicle shall have immunity from any civil or criminal liability when acting under the authority of this section.”; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 232** be amended on page 1, in line 40, by striking all after the period; by striking all in line 41; in line 42, by striking all after the “(d)””; by striking all in line 43;

On page 2, by striking all in lines 1 through 17; in line 18, by striking “(e)””; after line 26, by inserting the following:

“(e) (1) For the purpose of holding and investing the assets of other postemployment benefits funds, and notwithstanding the provisions of any statute, any taxing subdivision may, by ordinance or resolution, either establish one or more trust funds or determine to participate in a multiemployer trust fund.

(2) Each taxing subdivision establishing or participating in such a trust fund shall provide for the management and investment of such funds and any such trust. The taxing subdivision may establish a board or commission or designate an existing board or commission to manage the trust and invest the trust funds. Each taxing subdivision that chooses to establish or designate such a board or commission shall provide for the organization of and the manner of election or appointment of the members of such board or commission.

(3) Notwithstanding any limitations on the investment of municipal funds set forth in K.S.A. 12-1675, and amendments thereto, funds held in any such trust may be invested in accordance with the terms of such other postemployment benefit plans, as such terms may be amended from time to time. The investment and management of the assets of any such trust shall be in compliance with the prudent investor rule as set forth in K.S.A. 58-24a01 to 58-24a19, inclusive, and amendments thereto.

(f) The trust funds created pursuant to subsection (e) or in which money from other postemployment benefit funds is held and invested pursuant to subsection (e) shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. The taxing subdivision may receive and place in such trust funds any moneys from any source that may be lawfully utilized for the purposes stated in the ordinance or resolution creating such trust funds, including transfers from employee benefit funds established for other postemployment benefits.”;

Also on page 2, in line 27, by striking “(f)” and inserting “(g)””; also in line 27, by striking “(d)” and inserting “(e)””; after line 33, by inserting the following:

“Sec. 2. K.S.A. 10-1116 is hereby amended to read as follows: 10-1116. (a) The limits of indebtedness prescribed under the provisions of article 11 of chapter 10 of *the Kansas Statutes Annotated* may be exceeded when: (1) Payment has been authorized by a vote of the electors of the municipality; (2) provision has been made for payment by the issuance of bonds or temporary notes as provided by law; (3) provision has been made for payment by the issuance of no-fund warrants authorized by law and in the manner, and limited in amount as prescribed by law; (4) provision has been made for a revolving fund for the operation of any municipal airport financed and sustained partially or wholly by fees, rentals, proceeds from the sale of merchandise or charges for rendering services, received from the users of such airport; ~~or~~ (5) provision has been made for payment pursuant to a service agreement entered into pursuant to K.S.A. 12-5503, *and amendments thereto*; or (6) *the indebtedness is created by a municipality in establishing a post-employment benefits trust fund in accordance with K.S.A. 12-16,102, and amendments thereto.*

(b) Notwithstanding any other limits of indebtedness prescribed under the provisions of article 11 of chapter 10 of *the Kansas Statutes Annotated*, the following funds shall have as a limit of indebtedness an amount equal to 100% of the accrued revenue of the current fiscal year plus any balances carried forward, cash reserves, intergovernmental grants, and sums advanced to qualify for intergovernmental grants: (1) Special recreation facilities reserve funds set up by any board of park commissioners or any municipality for a revolving fund for the repair, replacement or addition to recreational facilities; (2) enterprise funds set up in any municipality to account for the financing of self-supporting activities of governmental units which render services on a user charge basis to the general public, such as municipal utilities engaged in the provision of water, electricity and natural gas and sanitary sewer systems which are financed by user charges; or (3) intragovernmental service funds or working capital funds established in any municipality to finance and account for services and commodities furnished by a designated agency of a governmental unit to other departments of the same governmental unit such as funds established for central garages

and motor pools, central printing and duplicating services and central purchasing and stores departments.

The board of education of any school district, the board of regents of any municipal university or the board of trustees of any community college may enter into contracts for teachers and other necessary employees and for continuing operating expenses in excess of the amount of funds actually on hand for that purpose. The limit of indebtedness provided by this section shall never exceed 100% of the amount actually expended for school purposes for the last preceding fiscal year during which school was conducted.

(c) It shall be unlawful for any member of the governing body of any municipality, as defined in K.S.A. 10-1101, and amendments thereto, to knowingly vote for or in any manner aid or promote the entering into of any contract or the creation of any other indebtedness in violation of the provisions of this section.”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 34, after “K.S.A.” by inserting “10-1116 and”; also in line 34, by striking “is” and inserting “are”;

On page 1, in the title, in line 10, after “K.S.A.” by inserting “10-1116 and”; in line 11, by striking “section” and inserting “sections”; and the bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**SB 23, SB 68, SB 183, SB 201, SB 202, SB 244, SB 284** reported correctly engrossed February 21, 2007.

#### REPORT ON ENROLLED BILLS

**SR 1819, SR 1820** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on February 21, 2007.

#### 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 McGinn in the chair.

On motion of Senator McGinn the following report was adopted:

Recommended **SB 269, SB 292** be passed.

**SB 115, SB 128, SB 143, SB 184, SB 210, SB 255, SB 259, SB 273, SB 283, SB 356** be amended by adoption of the committee amendments, and the bills be passed as amended.

**Sub SB 266** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Lee on page 3, in line 29, by striking “increase in” and inserting “of” and **Sub SB 266** be passed as amended.

**SB 203** be amended by adoption of the committee amendments, be further amended by motion of Senator Vratil as amended by Senate Committee, on page 4, in line 14, by striking all after “forfeited”; in line 15, by striking “pear”; also in line 15, before the period, by inserting “upon a failure to appear” and **SB 203** be passed as further amended.

**SB 249** be amended by adoption of the committee amendments, be further amended by motion of Senator Francisco as amended by Senate Committee, on page 1, in line 39, after the period, by inserting “The governing body may revise the description of the impact.”; in line 43, by striking all after the period;

On page 2, by striking all in lines 1 and 2 and **SB 249** be passed as further amended.

**SB 320** be amended by adoption of the committee amendments, be further amended by motion of Senator Huelskamp as amended by Senate Committee, on page 1, in line 23 by striking “five” and inserting “three” and **SB 320** be passed as further amended.

A motion by Senator Haley to amend **SB 320** failed and the following amendment was rejected: As amended by Senate Committee, on page 3, after line 19, by inserting the following:

“New Sec. 4. This section may be cited as the Interstate Compact on the Agreement Among the States to Elect the President by National Popular Vote Act.

## ARTICLE I. MEMBERSHIP

Any State of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

ARTICLE II. RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE  
FOR PRESIDENT AND VICE PRESIDENT

Each member state shall conduct a statewide popular election for President and Vice President of the United States.

ARTICLE III. MANNER OF APPOINTING PRESIDENTIAL ELECTORS  
IN MEMBER STATES

1. Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each State of the United States and in the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a "national popular vote total" for each presidential slate.

2. The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the "national popular vote winner."

3. The presidential elector certifying official of each member state shall certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner.

4. At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within 24 hours to the chief election official of each other member state.

5. The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final determination conclusive as to the counting of electoral votes by Congress.

6. In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

7. If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees.

8. The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

9. This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

## ARTICLE IV. OTHER PROVISIONS

1. This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state.

2. Any member state may withdraw from this agreement, except that a withdrawal occurring six months or less before the end of a President's term shall not become effective until a President or Vice President shall have been qualified to serve the next term.

3. The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally.

4. This agreement shall terminate if the electoral college is abolished.

5. If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

## ARTICLE V. DEFINITIONS

For purposes of this agreement,

1. "Chief executive" shall mean the Governor of a State of the United States or the Mayor of the District of Columbia;
2. "Elector slate" shall mean a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate;
3. "Chief election official" shall mean the state official or body that is authorized to certify the total number of popular votes for each presidential slate;
4. "Presidential elector" shall mean an elector for President and Vice President of the United States;
5. "Presidential elector certifying official" shall mean the state official or body that is authorized to certify the appointment of the state's presidential electors;
6. "Presidential slate" shall mean a slate of two persons, the first of whom has been nominated as a candidate for President of the United States and the second of whom has been nominated as a candidate for Vice President of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state;
7. "State" shall mean a State of the United States and the District of Columbia; and
8. "Statewide popular election" shall mean a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 10, by striking "the presidential primary" and inserting "certain elections"; in line 11, by striking "thereof" and inserting "of the presidential primary; enacting the interstate compact on the agreement among the states to elect the president by national popular vote act"

On motion of Senator D. Schmidt the Senate adjourned until 8:30 a.m., Thursday, February 22, 2007.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

