

# Journal of the Senate

TWENTIETH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Monday, February 7, 2005—2:30 p.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with thirty-eight senators present.  
Senators Huelskamp and Wagle were excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,  
Where were the men last evening?  
If the truth were told,  
Almost every one of them  
Watched the Super Bowl.  
A wife once said if she desired  
Her husband to attract,  
She'd walk before the TV  
With a number on her back!  
You know that I love football, Lord,  
But to us You have told  
That what You've placed before us  
Could be called a Super Goal.  
Our goal's to serve constituents,  
And we play a Super Role  
By providing opportunities  
For the young and for the old.  
In every free society  
Predators take their toll;  
By convincing the vulnerable  
To even sell their soul.  
Lord, guide us through this session;  
Make us wise and bold.  
For there's no profit if people gain  
The world and lose their soul. (Mark 8:36-37)  
I pray in the Name of Jesus Christ,  
AMEN

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 207**, An act concerning insurance; relating to fraudulent practices and the prevention thereof; amending K.S.A. 40-2,118, 40-1612, 40-1613 and 40-19a10 and K.S.A. 2004 Supp. 40-19c09 and repealing the existing sections; also repealing K.S.A. 40-247 and 40-417, by Committee on Financial Institutions and Insurance.

**SB 208.** An act concerning children and minors; relating to licensure of a child care facility or family day care home, by Senator Pyle.

**SB 209.** An act concerning the transportation development district act; relating to district sales tax; amending K.S.A. 2004 Supp. 12-17,144 and 12-17,145 and repealing the existing sections, by Committee on Assessment and Taxation.

**SB 210.** An act regulating traffic; requiring the use of strobe lights on school buses; amending K.S.A. 8-1730 and repealing the existing section, by Committee on Education.

**SB 211.** An act relating to the Kansas national guard; providing for certain life insurance coverage, by Senators D. Schmidt, Allen, Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson and Wysong.

**SB 212.** An act concerning the health care data governing board; relating to health care data collection; prescribing certain duties for the board; procedures and guidelines for data collection, submission and availability; amending K.S.A. 65-6804 and 65-6805 and K.S.A. 2004 Supp. 65-6803 and repealing the existing sections, by Committee on Health Care Strategies.

**SB 213.** An act concerning controlled substances; relating to drug paraphernalia; definition; amending K.S.A. 65-4150 and repealing the existing section, by Committee on Judiciary.

#### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 205; HB 2031.**

Elections and Local Government: **SB 204.**

Federal and State Affairs: **HB 2027, HB 2083.**

Financial Institutions & Insurance: **SB 196, SB 197, SB 198.**

Judiciary: **SB 199, SB 200, SB 201, SB 202, SB 203, SB 206.**

Transportation: **HB 2109.**

#### REFERRAL OF APPOINTMENTS

The following appointment made by the Governor and submitted to the senate for confirmation, was referred to Committee as indicated:

*Member, Kansas Racing and Gaming Commission*, Glenn R. Braun, effective upon the date of confirmation by the Senate to serve a term of four years.

(Federal and State Affairs)

#### MESSAGE FROM THE GOVERNOR

January 12, 2005

*Message to the Senate of the State of Kansas:*

Enclosed herewith is Executive Directive No. 05-356 for your information.

Sincerely,

KATHLEEN SEBELIUS

*Governor*

The President announced Executive Directive No. 05-356, Authorizing Pay Differentials and Activation Payments for Employees of the State of Kansas Activated in the Reserve Components, is on file in the office of the Secretary of the Senate and is available for review at anytime.

#### COMMUNICATIONS FROM STATE OFFICERS

##### KANSAS DEPARTMENT OF CORRECTIONS

February 2, 2005

In accordance with the provisions of KSA 2003 Supp. 60-4117, Roger Werholtz, Secretary of Corrections, submitted a report for the Kansas Department of Corrections State Forfeiture Fund for the period of December 1, 2003 through December 1, 2004.

KANSAS STATE UNIVERSITY  
Research and Extension

January 2005

Fred A. Cholick, Dean and Director, submitted a "Knowledge for Life" informal report to the Kansas Legislature. Publications from K-State Research and Extension are available on the World Wide Web at: [www.oznet.ksu.edu](http://www.oznet.ksu.edu)

The President announced the above reports are on file in the office of the Secretary of the Senate and are available for review at any time.

**MESSAGE FROM THE HOUSE**

Announcing passage of **HB 2086**.

**INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HB 2086** was thereupon introduced and read by title.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senators Kelly, V. Schmidt and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1812—

A RESOLUTION congratulating and commending Washburn University on the occasion of the school's 140th anniversary.

WHEREAS, Washburn University was incorporated on February 6, 1865, as Lincoln College; and

WHEREAS, The charter of Lincoln College afforded all individuals, without distinction of race or gender, the advantages of a liberal education, thus fitting them for positions of responsibility and usefulness; and

WHEREAS, Lincoln College was renamed Washburn College to honor a major donor, Ichabod Washburn of Worcester, Massachusetts, who became the inspiration for the school's mascot, The Ichabod, one of the most unique in the nation; and

WHEREAS, Washburn College was a private college until 1941, when the citizens of Topeka endorsed the school by voting to establish a municipal university governed by a local board of regents; and

WHEREAS, Washburn University has received state funds since 1961 and has been coordinated by the Kansas Board of Regents since 1991. Today it is a publicly funded, independently governed, state coordinated university; and

WHEREAS, The Washburn campus was severely damaged in a tornado in 1966 but was reconstructed through the dedication of faculty, staff, students, alumni and friends and today boasts modern facilities which encompass more than one million square feet; and

WHEREAS, The academic programs have evolved to meet the needs of the students, with the School of Law established in 1903; the College Arts and Sciences, which evolved from the College of Liberal Arts, in 1971; the School of Business in 1971; the School of Nursing in 1974; and the School of Applied Studies in 1983; and

WHEREAS, The university boasts more than 30,000 alumni, with Washburn graduates residing in every county in Kansas and in every state in the United States; and

WHEREAS, Washburn has produced many leaders among its alumni including the first woman treasurer of the United States, a candidate for United States President and the first nobel laureate to graduate from a Kansas university; and

WHEREAS, The enrollment of Washburn University has increased 25 percent in the past five years, with a record enrollment of 7,400 for the fall 2004 semester; and

WHEREAS, Washburn offers more than 190 programs leading to certification, associate, bachelor, master's and juris doctor degrees through the College of Arts and Sciences and the Schools of Applied Studies, Business, Law and Nursing; and

WHEREAS, Washburn is home to the Mulvane Art Museum, the oldest accredited art museum west of the Mississippi River, and KTWU, the first public television station in Kansas; and

WHEREAS, Washburn University has received a top 10 rating among midwestern public master's level universities in the U.S. News & World Report's America's Best College ranking for each of the past four years: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That Washburn University be congratulated and commended for a 140 year tradition of providing quality education; and

*Be it further resolved:* That the Secretary of the Senate provide five enrolled copies of this resolution to Dr. Jerry B. Farley, President, Washburn University, 1700 SW College Ave., Topeka, KS 66621.

On emergency motion of Senator Kelly **SR 1812** was adopted unanimously.

Those in attendance were Dr. Jerry Farley, Mayor James McClinton, David Monical, Tom Ellis, Kevin Brown, Matt Sinovic, Amanda Millard, Peggy Clark and the Washburn Ichabod.

#### REPORTS OF STANDING COMMITTEES

Committee on **Commerce** recommends **SB 4** be amended on page 1, in line 27, before the period by inserting “, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files with the United States department of housing and urban development a certification required by the secretary of housing and urban development and complies with the standards established under the federal act, and except that such term shall not include any self-propelled recreational vehicle”; in line 35, by striking “; and” and inserting a period;

On page 2, in line 24, by striking “obligates” and inserting “authorizes”;

On page 3, in line 36, by striking all after the “(v)”; by striking all in lines 37 through 39; in line 40, by striking “(w)”; in line 43, by striking “(x)” and inserting “(w)”;

On page 4, in line 3, by striking “(y)” and inserting “(x)”; in line 5, by striking “(z)” and inserting “(y)”; in line 6, by striking all after “homes”; by striking all in line 7; in line 8, by striking all before the period; after line 8, by inserting the following:

“(z) “Licensed installer“ means an installer who has met the requirements set forth in this act and rules and regulations promulgated hereunder and has been issued a manufactured home installer’s license by the president.”;

Also on page 4, in line 36, after “homes” by inserting “, except that municipalities may adopt standards for the installation of manufactured homes which are consistent with the installation standards promulgated pursuant to section 4, and amendments thereto”; also in line 36, by striking all after the period; by striking all in lines 37 through 43;

On page 5, by striking all in lines 1 and 2; in line 4, after “uniform” by inserting “installation”; also in line 4, by striking all after “standards”; in line 5, by striking all before the period; also in line 5, after “The” by inserting “installation”; in line 6, by striking all after the second comma; by striking all in lines 7 and 8; in line 9, by striking all before the period and inserting “or on and after the date which is six months from the date the standards promulgated pursuant to the federal act are published in the federal register, whichever is later. The installation standards shall establish reasonable specifications for the installation of a manufactured home, at the place of occupancy, to ensure proper siting, the joining of all sections of the home and installation of stabilization, support or anchoring systems”; in line 11, by striking “No” and inserting: “The rules and regulations promulgating the installation standards shall be adopted in the manner prescribed by K.S.A. 2004 Supp. 77-421, and amendments thereto, after notice has been given and a hearing held in the manner prescribed by K.S.A. 2004 Supp. 77-421, and amendments thereto. The president may amend or alter the installation standards by duly adopted rules and regulations, but no”; after line 18, by inserting the following:

“(c) The president shall monitor the progress of standards promulgated pursuant to the federal act, shall determine whether the state of Kansas is in compliance with the federal standards and shall report such activity and recommend action necessary to bring Kansas into compliance with the federal act. Such report shall be delivered to the senate commerce committee and the house commerce and labor committee by February 1 of each year.”;

Also on page 5, in line 20, by striking “January” and inserting “July”; in line 22, by striking “an au-”; in line 23, by striking “thorized” and inserting “a licensed”; also in line 23, by

striking “and hold an apprentice license pursuant to this section”; in line 27, by striking “January” and inserting “July”; in line 30, by striking “an authorized” and inserting “a licensed”; in line 34, by striking “January” and inserting “July”; in line 37, by striking “an authorized” and inserting “a licensed”;

On page 6, in line 7, by striking “(h)” and inserting “(i)”; in line 28, before the semicolon by inserting “, except that for an applicant submitting an application during calendar year 2007, at least one year of the applicant’s prior experience shall be as an apprentice installer; and for an applicant submitting an application thereafter, both years of the applicant’s prior experience shall be as an apprentice installer”; in line 32, by striking “authorized” and inserting “licensed”; in line 33, by striking “authorized” and inserting “licensed”; in line 36, by striking “authorized” and inserting “licensed”; in line 37, by striking “this act” and inserting “the installation standards”; also in line 37, by striking all after the period; by striking all in lines 38 through 43;

On page 7, by striking all in lines 1 through 3; in line 10, by striking all after the period; by striking all in lines 11 through 36;

On page 8, in line 2, by striking “Any” and inserting “On and after July 1, 2006, a”; also in line 2, by striking “an authorized” and inserting “a licensed”; in line 4, by striking “an authorized” and inserting “a licensed”; also in line 4, after the period by inserting “A licensed installer shall be present at the site where the manufactured home is being installed at such times as may be necessary for the licensed installer to ensure that the manufactured home is being installed in accordance with the installation standards.”; in line 5, by striking “authorized” and inserting “licensed”; in line 6, by striking “authorized” and inserting “licensed”; in line 24, after the “a” by inserting “manufactured home installer’s”; also in line 24, by striking “an authorized” and inserting “a licensed”; in line 28, by striking “January” and inserting “July”; in line 36, by striking “an authorized” and inserting “a licensed”; after line 36, by inserting the following:

“(j) On and after January 1, 2007, for good cause shown, the president may waive the requirement that some or all of an applicant’s prior experience be obtained as an apprentice installer.”;

Also on page 8, in line 37, by striking “January” and inserting “July”; in line 39, by striking “after the effective”; in line 40, by striking all before the period; in line 43, before the period by inserting “, or the standards promulgated by the municipality in accordance with section 3, and amendments thereto”;

On page 9, in line 2, by striking “authorized” and inserting “licensed”; in line 24, by striking “January” and inserting “July”; in line 25, by striking “an author-”; in line 26, by striking “ized” and inserting “a licensed”; in line 27, by striking “an authorized” and inserting “a licensed”; in line 35, by striking “an authorized” and inserting “a licensed”; in line 36, by striking “an authorized” and inserting “a licensed”; in line 42, by striking “an”; in line 43, by striking “authorized” and inserting “a licensed”;

On page 10, in line 3, by striking “January” and inserting “July”; in line 4, by striking “an authorized” and inserting “a licensed”; by striking all in lines 16 through 38 and inserting the following:

“New Sec. 10. (a) If the owner of a manufactured home which is installed on or after July 1, 2006, believes that the manufactured home is not in compliance with the installation standards or the federal act, the owner may file an application with the corporation for an inspection of the manufactured home by a qualified inspector. The application shall be submitted on a form prescribed by the corporation and shall be accompanied by a nonrefundable application fee of \$100. Upon receipt of the application and fee, the president shall designate a qualified inspector to conduct an inspection of the manufactured home, to determine the validity of the owner’s complaint, and the president, within three days thereafter, shall give to all parties involved in the dispute, written notice of the filing of the owner’s application and the designation of the qualified inspector.

(b) The president shall adopt such rules and regulations as may be necessary to provide for the inspection of a manufactured home pursuant to this section and to otherwise provide for the implementation of this section.

(c) All parties involved in the dispute shall be given an opportunity to be present during the inspection of the home. At the completion of the inspection, the inspector shall prepare

a written report of the inspector's findings of defects, if any. The report shall be submitted to the president, and copies of the report shall be given at the same time to all parties involved in the dispute. Within 10 days of receipt of the inspector's report, any party involved in the dispute may file with the president written objections to the inspector's report. A copy of any party's written objections shall, at the same time, be provided to the other parties.

(d) Upon review of the inspector's report, together with any written statement of objections filed by any of the parties, the president shall issue an order directing the action, if any, to be taken by the parties involved. Unless the president finds that the application for inspection is frivolous, the order shall assess the costs of the inspection to the parties in dispute other than the owner of the manufactured home. The president shall assess the costs to the parties in such proportion as the president deems just and equitable. All costs of a frivolous request for inspection shall be assessed against the owner.

(e) Any party aggrieved by the president's order may file a written request for a hearing within 10 days of the date of the order. The hearing shall be conducted and any action taken by the president or the president's designee pursuant to the hearing shall be in accordance with the provisions of the Kansas administrative procedure act.; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 6**, **SB 28** be reported without recommendation.

Also, **SB 30** be amended on page 1, in line 13, before "Under" by inserting "(a)"; in line 22, by striking "(a)" and inserting "(1)"; in line 24, by striking "(b)" and inserting "(2)"; in line 27, by striking "(1)" and inserting "(A)"; in line 29, by striking "(2)" and inserting "(B)"; after line 30, by inserting the following:

"(b) Such individual shall submit to urinalysis, at the expense of such individual, during the application process and randomly thereafter as determined by the case worker. Upon such individual's request, a confirmation test of a positive result shall be performed at such individual's expense. Any state or federal assistance to such individual, permitted by this section, shall be suspended until receipt of the confirmation result. A positive result shall disqualify such individual from receiving such state and federal assistance. Thereafter, such disqualified individual may reapply for assistance after 30 days."; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Tuesday, February 8, 2005.

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

PAT SAVILLE, *Secretary of the Senate*.

