

Journal of the Senate

FIFTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 21, 2006—2:30 p.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Instead of March coming like a lion, Spring has come in like a lion.

Three weeks ago I prayed, O God,

That You would send us rain.

We've had a couple of showers

But now the real rain came.

For the first time in many weeks,

Water's standing in my yard.

It has been a steady soaker

Impossible to disregard.

Of course there are lots of Kansans

Who have offered up their prayer,

Ever since it was apparent

Rain was needed everywhere.

No doubt folks have wondered

Why we had to wait.

Perhaps if more of us had prayed

It would not have been so late!

You have made it clear in Your Word, O God, exactly what Your conditions
are for a nation to be blessed:

"If my people, who are called by My Name, will humble themselves and
pray, and seek my face, and turn from their wicked ways, then I will hear
from heaven, and forgive their sin and heal their land." (II Chronicles 7:14)

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 594, An act concerning bioscience; creating the joint committee on bioscience oversight, by Committee on Ways and Means.

SB 595, An act concerning taxation; relating to school ad valorem tax levy; income tax surtax; sales and use tax rates; amending K.S.A. 2005 Supp. 72-6431, 79-32,110, 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections, by Committee on Ways and Means.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2972**.

Federal and State Affairs: **SB 593**.

Judiciary: **HB 2880**.

Public Health and Welfare: **Sub HB 2396; HB 2813**.

Ways and Means: **HB 2957, HB 2958, HB 2968**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2532, HB 2967, HB 2977, HB 3005**.

Passage of **SB 394, SB 470, SB 558**.

Also, passage of **SB 139**, as amended, **SB 375**, as amended, **SB 459**, as amended.

The House concurs in Senate amendments to **HB 2616**.

The House nonconcur in Senate amendments to **HB 2554**, requests a conference and has appointed Representatives O'Neal, Kinzer and Pauls as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2532, HB 2967, HB 2977, HB 3005 were thereupon introduced and read by title.

ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2554**.

The President appointed Senators Vratil, Bruce and Goodwin as conferees on the part of the Senate.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator McGinn moved the Senate concur in house amendments to **SB 362**.

SB 362, An act concerning solid waste; relating to solid waste disposal areas; amending K.S.A. 65-3407 and 65-3415b and K.S.A. 2005 Supp. 65-3402 and repealing the existing sections.

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

Yeas: Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Francisco.

The Senate concurred.

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **H Sub SB 35** and requested a conference committee be appointed.

The President appointed Senators Donovan, Wilson and Gilstrap as a conference committee on the part of the Senate.

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **H Sub SB 76** and requested a conference committee be appointed.

The President appointed Senators Donovan, Wilson and Gilstrap as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 261** and requested a conference committee be appointed.

The President appointed Senators Vratil, D. Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 332** and requested a conference committee be appointed.

The President appointed Senators Schodorf, Vratil and Lee as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 336** and requested a conference committee be appointed.

The President appointed Senators Vratil, Bruce and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **SB 344** and requested a conference committee be appointed.

The President appointed Senators Donovan, Wilson and Gilstrap as a conference committee on the part of the Senate.

On motion of Senator Emler the Senate nonconcurred in the House amendments to **SB 350** and requested a conference committee be appointed.

The President appointed Senators Emler, Apple and Lee as a conference committee on the part of the Senate.

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **SB 374** and requested a conference committee be appointed.

The President appointed Senators Donovan, Wilson and Gilstrap as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 434** and requested a conference committee be appointed.

The President appointed Senators Vratil, D. Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 479** and requested a conference committee be appointed.

The President appointed Senators Vratil, Bruce and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Schodorf the Senate nonconcurred in the House amendments to **SB 485** and requested a conference committee be appointed.

The President appointed Senators Schodorf, Vratil and Lee as a conference committee on the part of the Senate.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointment, submitted by the Attorney General to the senate for confirmation, was considered.

Senator D. Schmidt moved the following appointment be confirmed as recommended by the Standing Senate Committee:

By the Attorney General:

On the appointment to the:

Crime Victims Compensation Board:

Roger S. Villanueva, term expires March 15, 2010.

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, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The appointment was confirmed.

FINAL ACTION ON CONSENT CALENDAR

HB 2560, HB 2572, HB 2806, HB 2824; HCR 5011 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

HB 2560, An act concerning the workers compensation fund; relating to powers and duties of the commissioner of insurance; abolishing the workers compensation fund oversight committee; amending K.S.A. 2005 Supp. 44-566a and repealing the existing section; also repealing K.S.A. 46-2401.

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,

McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HB 2572, An act concerning postsecondary educational institutions; relating to private and out-of-state institutions; amending K.S.A. 58-3046a, 72-4450, 72-4451, 72-4452, 74-3201b and 74-32, 144 and repealing the existing sections.

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, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HB 2806, An act amending the uniform consumer credit code; relating to mortgages; amending K.S.A. 2005 Supp. 16a-3-308a and repealing the existing section.

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, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HB 2824, An act concerning pre-arranged funeral agreement accounts; eliminating the waiting requirement; amending K.S.A. 2005 Supp. 16-304 and repealing the existing section.

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, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

HCR 5011, A concurrent resolution expressing the Legislature's recognition and appreciation for family caregivers throughout the state.

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, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The resolution was adopted.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

SB 319, An act regarding eminent domain; concerning excess land; amending K.S.A. 2005 Supp. 12-1773 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, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed, as amended.

Sub SB 323, An act concerning eminent domain; relating to restriction of government authority to take property; amending K.S.A. 26-501 and K.S.A. 2005 Supp. 12-1773 and 19-101a and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Donovan, Francisco, Goodwin, Haley, Hensley, Huelskamp, Journey, Lee, McGinn, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Schmidt V, Taddiken, Teichman, Umbarger, Wagle.

Nays: Allen, Brungardt, Emler, Gilstrap, Jordan, Kelly, Morris, Reitz, Schodorf, Steinger, Vratil, Wilson, Wysong.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I wholeheartedly support curtailment of the use of eminent domain in the State of Kansas. I also wholeheartedly support the process that **Sub SB 323** received in committee; a full and fair hearing for all parties involved and a resolution of the issue by those who are most impacted by the problem. I am deeply disappointed that, in a few minutes, the Kansas Senate undid hours and hours of thoughtful deliberations and compromise of the Kansas Farm Bureau, the Kansas Livestock Association, the League of Kansas Municipalities and several chambers of commerce. Last night I spoke with constituents who are members of Kansas Farm Bureau. They join me in my disappointment. Mr. President, I vote no.—JAY SCOTT EMLER

Senators Kelly, Morris, Reitz and Schodorf request the record to show they concur with the “Explanation of Vote” offered by Senator Emler on **Sub SB 323**.

MR. PRESIDENT: I vote AYE on all measures and would like to explain my vote on **Sub SB 323**. Eminent Domain, a once useful tool utilized by local governments to expand public use for infrastructure improvement and enhancement of general well being, has become a significant problem to the basic right of an American to purchase and retain, unfettered, real property.

The United States Supreme Court, as Supreme Courts are sometimes subject to do, erred by not siding with the fundamental rights of the individual property owner instead siding with wealthy developers and greedy local governments. The framers of eminent domain would probably never had imagined that the word “blight” would mean that a local government can make more taxes with a developer on your property. The Supreme court’s decision did, however, leave open the door for the States to set the bar for what is right and what is not regarding eminent domain; it takes us back to that basic tenet which worked well in this country for centuries.

Sub SB 323 begins the patchwork repair by this state of insuring these rights are returned to the individual. If a (person’s) home is truly (their) castle, this bill is the right thing for us to do.—DAVID HALEY

MR. PRESIDENT: I believe private property rights are a sacred, fundamental right that should be guaranteed by the 5th Amendment of our Federal Constitution. However, the U.S. Supreme Court decision in *Kelo v. City of New London* effectively eliminated these constitutional protections for property owners. **Sub SB 323** partially restores these fundamental protections by limiting the coercive use of eminent domain by governments in Kansas. While I await a constitutional amendment on this issue, this bill should put an effective end to eminent domain for private gain—until a future legislature or court should undo these protections.—TIM HUELSKAMP

Senators Barnett, O'Connor and Petersen request the record to show they concur with the “Explanation of Vote” offered by Senator Huelskamp on **Sub SB 323**.

MR. PRESIDENT: I vote yes on **Sub SB 323**. While this bill is a positive step forward, the Kansas legislature still needs to provide further protection to property owners by adopting constitutional language and giving Kansas voters the opportunity to have say on this vital issue.

Individual property rights are a God given right. Those entities who wish to profit by misusing the coercive power of government should instead choose the American way and obtain the property they desire at their own risk and expense.—DENNIS PYLE

MR. PRESIDENT: Given that today is the 21st of March and the end of the session is growing near, I vote Aye on **Sub SB 323**, to move this issue through the process.

I have just been made aware of a provision in the floor amendment yesterday that requires existing redevelopment districts to garner legislative approval for the use of eminent domain.

The legislative approval requirement causes a timing problem for a current project as contracts have been signed but it is impossible to acquire legislative approval in time to honor those contracts.

I look to the body across the rotunda to correct this situation.—MARK TADDIKEN

MR. PRESIDENT: I oppose **Sub SB 323** as amended yesterday. Most of us claim steadfast support for local control. However, passage of this bill constitutes a dagger in the back of local control. It sends a clear message to cities and counties that the Senate does not believe local officials are willing to do the right thing for their communities. By seizing control of local economic development projects involving eminent domain, the Senate is acting as Big Brother to Kansas cities and counties. We are telling local governments that the Senate knows what is best for them. Is this what we really believe; is this the message we want to send?

This action has the potential to impede future growth and development in Kansas. Accolades showered on previous economic development projects in which eminent domain played a role must be mere lip service. Those who would be the beneficiaries from using eminent domain for economic development purposes are the very persons and entities who oppose its use. An effort was made to protect, and assure through compromise, persons who might be disadvantaged by the process. However, that work was rejected by those among us who believe local control must be relinquished to the Legislature.—JOHN VRATIL

SB 398, An act concerning eminent domain; relating to appeal from award; perfected appeal; amending K.S.A. 2005 Supp. 26-508 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, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

The bill passed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Committee on Utilities introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1824

A RESOLUTION urging the United States Congress to impose prohibitions or limitations on sale or other dissemination of personal data.

WHEREAS, Data brokers promote the sale or other dissemination of personal information, which may have been obtained by illegal or deceptive means; and

WHEREAS, Protection of personal privacy of citizens is of great concern to Kansas legislators and their constituents; and

WHEREAS, In the world of internet transactions, this issue transcends state, and even national boundaries: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Congress of the United States is urged to prohibit or impose strict limitations on the sale or other dissemination of the social security number or other sensitive personal data of an individual without the individual's authorization; and

Be it further resolved: That the Secretary of the Senate is directed to send an enrolled copy of this resolution to each member of the Kansas Congressional Delegation; United States Attorney General Alberto R. Gonzales, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001; Federal Trade Commission Chairperson Deborah Platt Majoras, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580; Federal Communications Commission Chairperson Kevin J. Martin, Federal Communications Commis-

sion, 445 12th Street, SW, Washington, D.C. 20554; and Kansas Attorney General Phill Kline.

REPORT ON ENGROSSED BILLS

SB 382, SB 549 reported correctly engrossed March 20, 2006.

Also, **SB 25** correctly re-engrossed March 20, 2006.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2432**, as amended by House Committee, be amended on page 1, preceding line 27, by inserting the following:

“Sec. 2. K.S.A. 58-3215 is hereby amended to read as follows: 58-3215. ~~A city or county may institute procedures for recourse against the responsible party pursuant to 16 U.S.C. 1247 (1983) and 49 C.F.R. 1152.29 (1986) upon the failure of the responsible party to comply with the provisions of this act. If the responsible party fails to comply with the provisions of this act, any adjacent property owner, city or county aggrieved by the non-compliance may bring an action in the district court to enforce the provisions of this act. Upon a finding that the responsible party has failed to comply with the provisions of this act, the court may enter an order requiring the responsible party to comply with the provisions of this act.~~”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 27, by striking “is” and inserting “and 58-3215 are”; in line 29, by striking “statute book” and inserting “Kansas register”;

In the title, in line 11, after “58-3214” by inserting “and 58-3215”; in line 12, by striking “section” and inserting “sections”; and the bill be passed as amended.

Also, **HB 2836**, as amended by House Committee of the Whole, be amended on page 6, in line 26, by striking “less” and inserting “fewer”; in line 27, by striking “less” and inserting “fewer”; and the bill be passed as amended.

HB 2899, as amended by House Committee, be amended on page 1, in line 30, by striking the comma and inserting “or”; also in line 30, by striking “or (d)”; following line 33, by inserting:

“(f) Violation of subsection (d) may result in a civil penalty of not less than \$250 nor more than \$2,500 for each such violation.”;

And by renumbering the remaining sections accordingly;

On page 2, in line 17, after “land”, by inserting “, the employees of such owners or legal occupants”; in line 19, after the period, by inserting “Such designees shall have a permit issued by the livestock commissioner in their possession at the time of the killing of the feral swine.”; and the bill be passed as amended.

Committee on **Education** recommends **HB 2585** be passed.

Also, **HB 2722** be amended on page 2, in line 21, following the period by inserting “No moneys shall be appropriated for the purpose of marketing or administering this program in an amount which exceeds \$50,000. No moneys shall be appropriated for the purpose of matching contributions after June 30, 2009.”; by striking all in lines 22 through 30 and inserting:

“(g) Between January 1 and January 31 of each year, the director of accounts and reports shall transfer from the state general fund to the Kansas postsecondary education savings program trust fund the amount, as certified by the treasurer, necessary to meet the matching obligations under subsection (f) for the preceding calendar year. On or before January 31 of each year, the treasurer shall transfer from the Kansas postsecondary education savings program trust fund to the account of each participant the amount determined by the treasurer to meet the matching obligation due to such participant under subsection (f) for the preceding calendar year.

(h) The treasurer shall ensure that all withdrawals of matching funds are used for qualified withdrawals under K.S.A. 75-640 et seq., and amendments thereto.”; and the bill be passed as amended.

Committee on **Election and Local Government** recommends **HB 2676** be passed; also **HB 2720**, as amended by House Committee of the Whole, be passed.

Committee on **Financial Institutions and Insurance** recommends **HB 2553** be passed.

Committee on **Transportation** recommends **Substitute for HB 2513** be amended on page 1, following the enacting clause by inserting the following:

“Section 1. K.S.A. 8-1730 is hereby amended to read as follows: 8-1730. (a) Every school bus, in addition to any other equipment and distinctive markings required by this act:

(1) Shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall display to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall be visible at 500 feet in normal sunlight;

(2) *every new school bus put into initial service after July 1, 2007, shall be equipped with a white flashing strobe light mounted on the roof of such bus to afford optimum visibility; and*

(3) *prior to July 1, 2009, all other school buses shall be retrofitted with a white flashing strobe light mounted on the roof of such bus.*

(b) Any school bus, in addition to the lights required by subsection (a), may be equipped with:

(1) Yellow signal lamps mounted near each of the four red lamps and at the same level but closer to the vertical centerline of the bus, which shall display two alternately flashing yellow lights to the front and two alternately flashing yellow lights to the rear, and these lights shall be visible at 500 feet in normal sunlight. These lights shall be displayed by the school bus driver at least 200 feet, but not more than 1,000 feet, before every stop at which the alternately flashing red lights required by subsection (a) will be actuated; or

(2) head lamps which alternately flash on low beam or simultaneously flash on low beam, except such head lamps shall only be activated during daylight hours.

(c) The state board of education is authorized to adopt rules and regulations promulgating standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses consistent with the provisions of this act. Such standards and specifications shall correlate with and so far as consistent with the provisions of this act conform to the specifications then current as approved by the society of automotive engineers.

(d) The provisions of this section shall be subject to the provisions contained in K.S.A. 8-2009a, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 14, by striking “Section” and inserting “Sec.”;

On page 3, in line 20, following “K.S.A.” by inserting “8-1730 and”; in line 22, following “after” by inserting “July 1, 2007, and”;

In the title, in line 9, by striking “relating to traffic cases” and inserting “providing for the regulation of traffic”; in line 10, following “K.S.A.” where it appears for the first time by inserting “8-1730 and”; and the substitute bill be passed as amended.

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 590**; **HB 2394**, **HB 2575**, **HB 2669**; **Sub HB 2695**; **HB 2858** be passed.

HB 2658, **HB 2772**, **HB 2878** be amended by adoption of the committee amendments, and the bills be passed as amended.

The committee recommended **HB 2634** be amended by adoption of the committee amendments and the bill be passed as amended.

A motion by Senator Steineger to amend **HB 2634** failed and the following amendment was rejected:

As amended by Senate Committee, on page 2, following line 11, by inserting:

“Sec. 3. (a) As used in this section:

(1) “School district” means unified school district No. 202, unified school district No. 203, unified school district No. 204 and unified school district No. 500.

(2) "Property" means any property, and improvements thereon, comprising a racetrack gaming facility or lottery gaming facility under the Kansas expanded lottery act located in Wyandotte county.

(3) "State aid" means general state aid, supplemental general state aid, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the school district finance and quality performance act or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the levying of school taxes, $\frac{1}{4}$ of the assessed valuation of such property shall be assigned to each of the school districts.

(c) The provisions of this section shall not apply if the property is not or ceases to be used as a racetrack gaming facility or a lottery gaming facility under the Kansas expanded lottery act.";

Renumber remaining section accordingly;

HB 2541 be amended by motion of Senator V. Schmidt, on page 2, after line 20, by inserting the following:

"Sec. 2. K.S.A. 38-123a is hereby amended to read as follows: 38-123a. Any person ~~seventeen~~ ⁽¹⁷⁾ 16 years of age or older shall be eligible to donate blood voluntarily without the necessity of obtaining parental permission or authorization. No person ~~seventeen~~ ⁽¹⁷⁾ 16 or 17 years of age shall receive compensation for any such donation without parental permission or authorization.";

And by renumbering the remaining sections accordingly;

Also on page 2, in line 21, before "K.S.A." by inserting "K.S.A. 38-123a and"; also in line 21, by striking "is" and inserting "are";

On page 1, in the title, in line 9, after "ACT" by inserting "relating to minors"; also in line 9, before "amend-" by inserting "concerning the donation of blood"; in line 10, before "K.S.A." by inserting "K.S.A. 38-123a and"; also in line 10, by striking "section" and inserting "sections"

Senator O'Connor amended **HB 2541**, on page 1, in line 38, preceding the semicolon by inserting ", except that a judge of the district court may, after due investigation, give consent and issue the license authorizing the marriage when the marriage is in the best interest of the person under the age of 16 years", and **HB 2541** be passed as amended.

SB 516 be amended by adoption of the committee amendments, be further amended by motion of Senator Brownlee, as amended by Senate Committee, on page 3, in line 7, by striking all after "within"; by striking all in line 8; in line 9, by striking "ment" and inserting "the time period set forth in subsection (d)"; by striking all in line 10; in line 11, by striking all before the period and inserting "day following the end of the time period set forth in subsection (d)"

Senator Vratil further amended **SB 516**, as amended by Senate Committee, on page 1, in line 16, preceding "construction" by inserting "building"; in line 24, by striking all following "building"; in line 25, by striking "line, sewer line"; in line 26, preceding the period by inserting "of a building"; also in line 26, by striking all after the period; by striking all in lines 27 and 28;

On page 4, preceding line 35, by inserting the following to read as follows:

"Sec. 8. The provisions of the Kansas fairness in public building construction act shall not apply to the design, construction, alteration, modification, improvement or repair of a public highway, road, street, bridge, dam, turnpike, water or sewer lines or related structures or stand-alone parking lots.";

By renumbering the remaining sections accordingly;

In the title, in line 10, preceding "construction" by inserting "building", and **SB 516** be passed as further amended.

HB 2576 be amended by adoption of the committee amendments, be further amended by motion of Senator Barnett, as amended by Senate Committee, on page 86, after line 40, by inserting the following:

"Sec. 4. K.S.A. 2005 Supp. 21-3412a is hereby amended to read as follows: 21-3412a. (a) Domestic battery is:

(1) Intentionally or recklessly causing bodily harm by a family or household member against a family or household member; or

(2) intentionally causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.

(b) (1) Upon a first conviction of a violation of domestic battery, a person shall be guilty of a class B person misdemeanor and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$200, nor more than \$500 or in the court's discretion the court may enter an order which requires the person enroll in and successfully complete a domestic violence prevention program.

(2) If, within five years immediately preceding commission of the crime, a person is convicted of a violation of domestic battery a second time, such person shall be guilty of a class A person misdemeanor and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for domestic violence prevention.

(3) If, within five years immediately preceding commission of the crime, a person is convicted of a violation of domestic battery a third or subsequent time, such person shall be guilty of a person felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The court may also require as a condition of parole that such person enter into and complete a treatment program for domestic violence. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program.

(c) As used in this section:

(1) Family or household member means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(2) for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(A) "Conviction" includes being convicted of a violation of this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(B) "conviction" includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(C) only convictions occurring in the immediately preceding five years including prior to the effective date of this act shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and

(D) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(E) *A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only once during the person's lifetime.*”;

And by renumbering the remaining sections accordingly;

Also on page 86, in line 42, after “Supp.” by inserting “21-3412a.”;

In the title, in line 22, before “amending” by inserting “domestic battery.”; in line 27, after “Supp.” by inserting “21-3412a.”

Senator Vratil further amended **HB 2576**, as amended by Senate Committee, on page 78, in line 20, by striking “40” and inserting “38”;

On page 85, in line 32, by striking “2006” and inserting “2007”;

On page 86, in line 21, by striking “2” and inserting “19”, and **HB 2576** be passed as further amended.

HB 2578 be passed over and retain a place on the calendar.

MESSAGE FROM THE GOVERNOR

I support the Second Amendment and the right of our citizens to keep and bear arms. It's an important part of our heritage and way of life in Kansas, and I've upheld that right as Governor. All law-abiding Kansans have the right to own a weapon to provide for their protection and the protection of their families.

Last year, I signed a bill to allow retired law enforcement officers, who have unique experience and special training, to carry concealed weapons. The new law also makes sure Kansas hunters and law-abiding gun owners don't violate the law by mistake when traveling. These changes, strongly supported by the National Rifle Association, were common-sense improvements to Kansas gun laws.

As violent crime rates in Kansas continue to drop below surrounding states with concealed carry laws, I continue to hear from the police chiefs and other law enforcement officials, members of the clergy, health care workers, and employers throughout our state that concealed weapons on the streets make our citizens less safe and secure.

While every law-abiding Kansan has a right to keep and bear arms, hidden weapons make it harder for law enforcement to do its job, and they make Kansas' workplaces less safe. Legislators know concealed weapons are a safety threat, which is why they ban them in their own workplace — the Capitol. Because of opposition from law enforcement and business leaders, I cannot support allowing hidden weapons into businesses, restaurants, malls and any number of other public places.

Therefore, in order to keep hidden weapons off Kansas streets, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto Senate Bill 418.

Vetoed *March 21, 2006*

Signed *Kathleen Sebelius*

MESSAGE FROM THE GOVERNOR

Kansas is an attractive place to do business and part of the reason for that is our low workers' compensation costs. Kansas' workers compensation rates are currently the eighth lowest in the nation, and employers have saved nearly \$113 million since the 1993 reforms were passed. At a time when most other insurance costs are rising, workers' compensation insurance premiums in our state will decline by 2 percent this year, saving our businesses an estimated \$3.5 million.

Benefits paid to workers injured on the job are the seventh lowest in the nation, and last year I signed a bill that makes it so Kansas businesses don't have to pay benefits to employees for drug or alcohol-related accidents. Additionally, pre-existing medical conditions are already factored into benefits, calling into question the need for this legislation.

Legislators would have been well-advised to listen to the veterans, fire fighters, nurses and seniors who all expressed their strong opposition to this bill.

Veterans have told me they're appalled that the physical hardships they endured during their military service would be used against them and I share their concerns. As Charles Yunker, Adjutant of the American Legion, Department of Kansas, testified, “Even those

soldiers, sailors, airmen and Marines not wounded or otherwise injured will be impacted simply because of the demands placed upon them during active duty." Following World War II, Kansas changed its laws to make sure returning veterans could easily re-enter the workforce. During a time when we have thousands of Kansans serving overseas, the idea of penalizing them for their military service is outrageous.

The Legislature's proposal would also allow a worker to be terminated simply because of an injury on the job. That's a slap in the face to the men and women who work hard every day to do their jobs in a safe and efficient manner, and it's simply wrong.

Therefore, in order to protect our workers and our veterans, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto Senate Bill 461.

Vetoed *March 21, 2006*

Signed *Kathleen Sebelius*

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

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

PAT SAVILLE, *Secretary of the Senate.*

