

Journal of the Senate

SIXTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, May 3, 2006—9:30 a.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,

Preachers and politicians use their voice a lot, and it seems to me that the Wrap-Up Session is a good time to pray a prayer I prayed here March 18, 1980 with one short clean-up amendment:

Ever since I was elected
I have used my voice a lot.
It's the way I tell the people
What I'm for and what I'm not.

I use it for the questions
Which I ask the conferees;
And I use it with my colleagues
When I want to shoot the breeze.

I use it for reporters
When they want an interview;
And I use it for the lobbyists
When they want my point of view.

Sometimes I speak quite slowly,
But to keep my bill alive,
I'll talk sixty miles an hour,
With gusts to ninety-five!

But, I need to be reminded
That it's really not a crime
To sometimes sit and listen
And not be talking all the time.

Also please remind me, Lord,
To avoid some future sorrow
By not saying things today
That I'll regret tomorrow.

So let me learn a lesson
When my voice is getting weak:
Why You gave two things to hear with,
And only one with which to speak!

I pray in the Name of Jesus Christ,

AMEN

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **House Substitute for SB 51**.

The House adopts the conference committee report on **House Substitute for SB 337**.

The House adopts the conference committee report on **HB 2122**.

The House adopts the conference committee report on **HB 2554**.

The House adopts the conference committee report on **HB 2710**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub for SB 51; H Sub for SB 337; Sub SB 486; HB 2129**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Brungardt moved the Senate concur in house amendments to **Sub SB 486**.

Sub SB 486, An act concerning the task force on racial profiling; amending K.S.A. 2005 Supp. 22-4607 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 Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 51**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 28 through 35 and inserting the following:

"Sec. 2. The state board of pharmacy shall conduct a study on the issue of licensing wholesale prescription drug distributors and the use of pedigree for prescription drugs and the penalty aspects for violation of any pedigree requirements. The results of such study shall be completed and presented along with a licensing and pedigree plan and recommendations for licensing and pedigree legislation to the legislature no later than January 15, 2007.";

In the title, in line 10, by striking "certain crimes" and inserting "drugs"; in line 11, by striking all after "therefor"; by striking all in line 12; in line 13, by striking all before the period and inserting "prescription drug pedigree study";

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

MARVIN NEUFELD

SCOTT SCHWAB

BILL FEUERBORN

Conferees on part of House

JOHN VRATIL

TERRY BRUCE

GRETA GOODWIN

Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **H Sub for SB 51**.

Senator Huelskamp offered a substitute motion the senate not adopt the Conference Committee Report and a new conference committee be appointed. The motion failed.

On roll call on **H Sub for SB 51**, the vote was: Yeas 38, Nays 2, 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, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Pyle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 337**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 337, as follows:

On page 1, in line 17, preceding "(a)", by inserting "On and after July 1, 2006:"; in line 26, preceding "(a)" by inserting "On and after July 1, 2006:";

On page 2, in line 3, by striking "The" and inserting "On and after July 1, 2006, the"; in line 13, by striking "The" and inserting "On and after July 1, 2006, the"; in line 40, by striking "The" and inserting "On and after July 1, 2006, the";

On page 3, in line 4, by striking "Upon" and inserting "On and after July 1, 2006, upon"; in line 11, by striking "There" and inserting "On and after July 1, 2006, there"; in line 19, preceding "K.S.A." by inserting "On and after July 1, 2006,"; in line 24, by striking "3.49%" and inserting "3.54%"; in line 25, by striking "4.85%" and inserting "4.92%"; in line 27, by striking "2.69%" and inserting "2.73%"; in line 29, by striking "2.07%" and inserting "2.10%"; in line 31, by striking ".55%" and inserting ".56%"; in line 33, by striking "2.65%" and inserting "2.68%"; in line 35, by striking "4.19%" and inserting "4.25%"; in line 39, by striking "1.23%" and inserting "1.24%"; in line 43, by striking "1.46%" and inserting "1.48%";

On page 4, in line 1, by striking "1.09%" and inserting "1.11%"; in line 2 following the semicolon, by inserting "to the child exchange and visitation centers fund, a sum equal to .67% of the remittance of docket fees,"; in line 3, by striking "17.61%" and inserting "17.85%"; in line 10, by striking "5.05%" and inserting "5.10%"; in line 11, by striking "2.80%" and inserting "2.83%"; in line 13, by striking "2.16%" and inserting "2.18%"; in line 15, by striking ".57%" and inserting ".58%"; in line 17, by striking "2.76%" and inserting "2.78%"; in line 18, by striking "4.37%" and inserting "4.41%"; in line 22, by striking "1.28%" and inserting "1.29%"; in line 25, by striking ".21%" and inserting ".22%"; in line 26, by striking "1.52%" and inserting "1.53%"; in line 27, by striking "1.14%" and inserting "1.15%"; also in line 27 following the semicolon, by inserting "to the child exchange and visitation centers fund, a sum equal to .69% of the remittance of docket fees,"; in line 29, by striking "18.33%" and inserting "18.51%"; by striking all in lines 32 through 43;

By striking all on pages 5 through 11;

On page 12, by striking all in lines 1 through 18; preceding line 19, by inserting the following:

"Sec. 9. On and after July 1, 2006, K.S.A. 20-2622 is hereby amended to read as follows: 20-2622. (H) (a) On and after the effective date of this act, a retirant who retires as provided in K.S.A. 20-2608 and amendments thereto, may return to temporary judicial duties while receiving service retirement benefits. Upon written agreement with the Kansas supreme court prior to retirement, such retirant shall be available to perform assigned judicial duties for not more than 104 days or 40% of each year. Notwithstanding the provisions of law in effect on the retirement date of a retirant, such retirant shall receive a stipend, payable monthly, equal to 25% of the current monthly salary of judges or justices serving in the same position as that held by the retirant at the time of retirement. Such agreement shall be for a period of not more than two years. A retirant may enter into subsequent agreements, except that the aggregate of these agreements shall not exceed 12 years. *The supreme court is hereby authorized and may pay on behalf of such retirant the amount specified by the Kansas state employees health care commission under K.S.A. 75-6508, and amendments*

thereto, as if the retirant is serving as a full-time employee of the judicial branch and participating in the state health care benefits program to provide for such participation of the retirant. Any retirant entering into a written agreement with the Kansas supreme court to be available to perform assigned judicial duties for less than 104 days or 40% of each year for a proportionally reduced stipend shall be considered as if the retirant is serving under a part-time appointment as an employee of the judicial branch and participating in the state health care benefits program to provide for such participation of the employee and the supreme court may pay on behalf of the retirant the amount specified by the Kansas state employees health care commission and K.S.A. 75-6508, and amendments thereto.

~~(b)~~ (b) Within five years after retirement, a retirant who did not enter into an agreement as provided for in subsection ~~(a)~~ (a) prior to retirement may enter into such a written agreement within 30 days prior to any anniversary date of retirement. Agreements shall be signed by the chief justice with the approval of a majority of the justices of the Kansas supreme court.

~~(c)~~ (c) If a written agreement is entered into pursuant to the provisions of subsection ~~(a)~~ (a), and notice is received by the chief justice of the refusal of the retirant to accept a temporary assignment without just cause, the written agreement shall be terminated.

~~(d)~~ (d) Nothing in this act shall be construed to require a retirant of the retirement system for judges to enter into an agreement to perform temporary judicial duties.

~~(e)~~ (e) Nothing in this act shall be construed to limit the supreme court's ability to make judicial assignments pursuant to the provisions of K.S.A. 20-310b and 20-2616 and amendments thereto; and the stipend provided by this act shall not be counted toward the annual limitation on compensation provided in K.S.A. 20-2616 and amendments thereto.

~~(f)~~ (f) Any retirant who has fulfilled the requirements of an agreement entered into pursuant to this act may continue to accept judicial assignments and shall be compensated for such subsequent assignments in accordance with the provisions of K.S.A. 20-310b and 20-2616 and amendments thereto.

~~(g)~~ (g) If an assignment given to a retirant in accordance with this act will require the retirant to exceed the 104 day limitation provided in subsection ~~(a)~~ (a), the retirant shall be compensated in accordance with the provisions of K.S.A. 20-2616 and amendments thereto.

~~(h)~~ (h) For purposes of this act, "retirant" shall include any justice of the Kansas supreme court, judge of the Kansas court of appeals, and district judge of any district court of Kansas who retired pursuant to the provisions of the retirement system for judges. Retirant shall not include any district magistrate judge.

Sec. 10. On and after July 1, 2006, K.S.A. 2005 Supp. 20-3002 is hereby amended to read as follows: 20-3002. (a) On and after January 1, 2003, through December 31, 2004, the court of appeals shall consist of 11 judges whose positions shall be numbered one to 11. On and after January 1, 2005, through December 31, ~~2006~~ 2007, the court of appeals shall consist of 12 judges whose positions shall be numbered one to 12. On and after January 1, ~~2007~~ 2008, through December 31, ~~2007~~ 2008, the court of appeals shall consist of 13 judges whose positions shall be numbered one to 13. On and after January 1, ~~2008~~ 2009, the court of appeals shall consist of 14 judges whose positions shall be numbered one to 14. Judges of the court of appeals shall possess the qualifications prescribed by law for justices of the supreme court.

(b) Judges of the court of appeals shall be selected in the manner provided by K.S.A. 20-3003 through 20-3010, and amendments thereto. Each judge of the court of appeals shall receive an annual salary in the amount prescribed by law. No judge of the court of appeals may receive additional compensation for official services performed by the judge. Each such judge shall be reimbursed for expenses incurred in the performance of such judge's official duties in the same manner and to the same extent justices of the supreme court are reimbursed for such expenses.

(c) The supreme court may assign a judge of the court of appeals to serve temporarily on the supreme court.

(d) Any additional court of appeals judge position created by this section shall be considered a position created by the supreme court and not a civil appointment to a state office pursuant to K.S.A. 46-234, and amendments thereto.

Sec. 11. On and after July 1, 2006, K.S.A. 2005 Supp. 21-4619 as amended by Section 21 of 2006 Senate Bill No. 418 is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b) and (c), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) a violation of K.S.A. 8-1567, and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

(4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto, or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(5) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(8) violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) a violation of K.S.A. 21-3405b, prior to its repeal.

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in the first degree as defined in K.S.A. 21-3401, and

amendments thereto; (14) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; (15) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; (16) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; (17) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2005 Supp. 21-3442, and amendments thereto; (18) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed; (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; or (20) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. *Except as otherwise provided by law, a petition for expungement shall be accompanied by a payment of a docket fee in the amount of \$100.* The petition shall state: (1) The defendant's full name;

(2) the full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(3) the defendant's sex, race and date of birth;

(4) the crime for which the defendant was arrested, convicted or diverted;

(5) the date of the defendant's arrest, conviction or diversion; and

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority. ~~There shall be no docket fee for filing a petition pursuant to this section.~~ All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

(e) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(f) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2005 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(G) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 2005 Supp. 17-12a102, and amendments thereto; or

(I) in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(h) Subject to the disclosures required pursuant to subsection (f), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime, but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

(i) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas sentencing commission;

(11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(12) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(13) the Kansas law enforcement training commission and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(14) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto; or

(15) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act.

(j) *The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.*

Sec. 12. On and after July 1, 2006, K.S.A. 2005 Supp. 22-2410, as amended by section 8 of 2006 Senate Bill No. 196, is hereby amended to read as follows: 22-2410. (a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. *Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100.* The petition shall state: (1) The petitioner's full name;

(2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;

(3) the petitioner's sex, race and date of birth;

(4) the crime for which the petitioner was arrested;

(5) the date of the petitioner's arrest; and

(6) the identity of the arresting law enforcement agency.

~~There shall be no docket fee for filing a petition pursuant to this section. In addition, no other~~ No surcharge or fee shall be imposed to any person filing a petition pursuant to this

section, who was arrested as a result of being a victim of identity theft under K.S.A. 2005 Supp. 21-4018, and amendments thereto. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding: (1) The arrest occurred because of mistaken identity;

(2) a court has found that there was no probable cause for the arrest;

(3) the petitioner was found not guilty in court proceedings; or

(4) the expungement would be in the best interests of justice and (A) charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes: (1) In any application for employment as a detective with a private detective agency, as defined in K.S.A. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services;

(2) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(3) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(5) in any application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142 and amendments thereto;

(6) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(7) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(8) in any other circumstances which the court deems appropriate.

(f) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(g) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

(h) *The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.*

Sec. 13. On and after July 1, 2006, K.S.A. 2005 Supp. 28-110 is hereby amended to read as follows: 28-110. The ~~sheriffs~~ *sheriff* of each county in the state shall charge the following fees for the services required by law to be performed by them:

Serving or executing and returning any writ, process, order or notice, including a copy of the same, whenever a copy is required by law, except as otherwise provided, for the first person.....	\$5.00
Serving warrants and making return thereof	1.00
Making arrests as law enforcement officer	1.00
Serving order of attachment, arrest or replevin and returning same	2.00
Making levy under execution	2.00
Appraisalment of property	2.00
Return of "no property found"	2.00
Approving and returning undertaking bond or recognizance	1.00
Advertising property for sale	2.00
Offering for sale or selling property.....	2.50
Taking inventory of personal property, each day.....	10.00
Sheriff's deed and acknowledgment, to be paid out of the proceeds of the sale of real estate conveyed.....	5.00
Issuing certificates of sale and recording same.....	2.00
Summoning talesman, each50

The sheriff shall charge, for witnesses whose attendance is procured under attachment and who are unable to pay their fare, actual expenses and mileage in an amount set in accordance with K.S.A. 75-3203a, and amendments thereto, and rules and regulations adopted pursuant thereto. If the writ, process, order or notice contains the names of more than one person, no fee shall be taxed or allowed and no person shall be required to pay any fee unless at the time of making returns the sheriff makes and files with the returns, or as a part thereof, a statement showing the service on the first person named by the sheriff and the service on the second person named by the sheriff and so on for each person served. If more than one process is served in the same case or on the same person, not requiring more than one journey from the office, the sheriff shall charge a fee for one service only. If more than one process for the same person, or in the same case, is issued and is in the hands of the sheriff at one time, it shall be the duty of the sheriff to make service of the processes, if possible, on the one trip. Where service is not affected or timely return made pursuant to K.S.A. 60-312 or 61-3005, and amendments thereto, no fee shall be taxed or allowed on subsequent alias, writ, process, order or notice as required to effect service and the return of service. Except as provided by K.S.A. 19-269, and amendments thereto, the sheriff shall be reimbursed for the necessary transportation and board expenses incurred while serving under requisition made by the governor. All fees charged by the sheriff pursuant to this section for the same case may be paid by a single check, money order or other form of payment at the discretion of the person making such payment. The state of Kansas and all ~~cities and counties~~ *municipalities* in this state, *as defined in K.S.A. 12-105a, and amendments thereto*, are hereby exempt, in any civil action in which such state, ~~city or county~~ *or municipality* is involved, from paying service of process fees prescribed herein.”;

And by renumbering the remaining sections accordingly;
 Also on page 12, in line 19, preceding “K.S.A.” by inserting “On and after July 1, 2006.”;
 On page 13, in line 2, by striking “\$61” and inserting “\$60”; in line 3, by striking “\$59” and inserting “\$58”; in line 7, by striking “\$61” and inserting “\$60”; in line 8, by striking “\$59” and inserting “\$58”; in line 14, by striking “\$61” and inserting “\$60”; in line 15, by striking “\$59” and inserting “\$58”; in line 18, by striking “\$61” and inserting “\$60”; in line 19, by striking “\$59” and inserting “\$58”;
 On page 14, in line 9, preceding “K.S.A.” by inserting “On and after July 1, 2006.”;
 On page 15, in line 26, preceding “K.S.A.” by inserting “On and after July 1, 2006.”; in line 27, preceding “change”, by inserting “modification or termination of separate maintenance, for a”; in line 30, by striking “\$23” and inserting “\$33”; in line 31, by striking “\$21” and inserting “\$31”; in line 39, preceding “K.S.A.” by inserting “On and after July 1, 2006.”;
 On page 17, by striking all in lines 6 through 22 and inserting the following:
 “Sec. 18. On and after July 1, 2006, K.S.A. 60-2005 is hereby amended to read as follows: 60-2005. The state of Kansas and all ~~cities and counties~~ *municipalities* in this state, *as defined in K.S.A. 12-105a, and amendments thereto*, are hereby exempt, in any civil action in which such state, ~~city or county~~ *or municipality* is involved, from depositing court costs

or paying docket fees prescribed by any other law of this state, except that if the costs are assessed against the state of Kansas or any ~~city or county~~ *municipality* in this state in any such action, such costs shall include the amount of the docket fee prescribed by K.S.A. 60-2001, *and amendments thereto*, together with any additional courts costs accrued in the action.

Sec. 19. On and after July 1, 2006, K.S.A. 61-2704, as amended by section 1 of 2006 House Bill No. 2704, is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of ~~\$26~~ \$30 *on and after July 1, 2006 through June 30, 2010, and \$28 on and after July 1, 2010*, if the claim does not exceed \$500; or ~~\$46~~ \$50 *on and after July 1, 2006 through June 30, 2010, and \$48 on and after July 1, 2010*, if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs required in an action seeking recovery of a small claim. No person may file more than 20 small claims under this act in the same court during any calendar year.”;

And by renumbering the remaining sections accordingly;

Also on page 17, in line 23, preceding “K.S.A.” by inserting “On and after July 1, 2006.”; in line 26, by striking “\$30” and inserting “\$28”; in line 27, by striking “\$28” and inserting “\$26”; in line 28, by striking “\$50” and inserting “\$48”; in line 29, by striking “\$48” and inserting “\$46”; in line 40, preceding “K.S.A.” by inserting “On and after June 18, 2006.”;

On page 18, preceding line 8, by inserting the following:

“Sec. 22. On and after June 18, 2006, K.S.A. 75-3120h is hereby amended to read as follows: 75-3120h. (a) The annual salary of the chief judge of the court of appeals and each of the other judges of the court of appeals shall be paid in equal installments each payroll period in accordance with this section.

(b) Except as otherwise provided in K.S.A. 75-3120l and amendments thereto, the annual salary of the chief judge of the court of appeals shall be ~~\$81,235~~ \$122,062.

(c) Except as otherwise provided in K.S.A. 75-3120l and amendments thereto, the annual salary of the other judges of the court of appeals shall be ~~\$79,079~~ \$118,971.

Sec. 23. On and after June 18, 2006, K.S.A. 75-3120l is hereby amended to read as follows: 75-3120l. (a) Whenever the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act are increased for payroll periods chargeable to fiscal years commencing after June 30, 1993, the annual salary of the chief justice of the supreme court, each other justice of the supreme court, the chief judge of the court of appeals, each other judge of the court of appeals, each district judge and each district magistrate judge shall be increased by an amount, adjusted to the nearest dollar, computed by multiplying the average of the percentage increases in all monthly steps of such pay plan by the annual salary of the justice or judge which is being received as provided by law and which is in effect prior to the effective date of such increase in the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act.

(b) If increases in the monthly rates of compensation from step movements of the pay plan for persons in the classified service under the Kansas civil service act are authorized for the fiscal year ending June 30, 1995, or any fiscal year thereafter, the annual salary of the chief justice of the supreme court, each other justice of the supreme court, the chief judge of the court of appeals, each other judge of the court of appeals, each district judge and each district magistrate judge shall be increased by an amount, adjusted to the nearest dollar, computed by multiplying the average percentage increase in the monthly rate of compensation from step movements on the pay plan for persons in the classified service under the Kansas civil service act determined under subsection (c) by the annual salary of the justice or judge which is being received as provided by law and which is in effect prior to the effective date of such increase. The increase in the annual salary of each justice or

judge pursuant to this subsection shall take effect on the first day of the first payroll period which is chargeable to the fiscal year in which such step movements on the pay plan are authorized to take effect.

(c) For purposes of subsection (b), the average percentage increase in the monthly rate of compensation from step movements on the pay plan for persons in the classified service under the Kansas civil service act shall be equal to the percentage certified by the secretary of administration which equals the estimated average of the percentage increases in all monthly rates of compensation from step movements on the pay plan for persons in the classified service under the Kansas civil service act which are authorized to take effect during the fiscal year in which such step movements on the pay plan are authorized to take effect.

(d) If the increase under subsection (a) takes effect on the first day of the first payroll period of the fiscal year, the percentage rate increases determined under subsections (a) and (b) shall be added together and such aggregate percentage increase of compensation under this section shall be used to increase the rate of compensation of each justice or judge instead of applying the increases under subsections (a) and (b) separately.

(e) *The provisions of this section shall not apply to the annual salary of any district judge nor the salary of any magistrate judge for any payroll period chargeable to the fiscal year ending June 30, 2007. The provisions of this section shall apply to the annual salary of each district judge or magistrate judge for payroll periods chargeable to fiscal years commencing after June 30, 2007.*;

And by renumbering the remaining sections accordingly;

Also on page 18, in line 8, preceding "K.S.A." by inserting "On and after June 18, 2006,";

Also on page 18, preceding line 18, by inserting the following:

"Sec. 24. On and after June 18, 2006, K.S.A. 75-3120h and 75-3120l and K.S.A. 2005 Supp. 75-3120g and 75-3120k are hereby repealed.";

And by renumbering the remaining sections accordingly;

Also on page 18, in line 18, preceding "K.S.A." by inserting "On and after July 1, 2006,"; also in line 18, preceding "59-104" by inserting "20-2622,"; also in line 18, by striking "61-2704" and inserting "60-2005"; in line 19, by striking "21-4619, 22-2410," and inserting "20-3002, 28-110 and"; also in line 19, by striking "75-3120g and 75-"; in line 20, by striking "3120k" and inserting "and K.S.A. 61-2704, as amended by section 1 of 2006 House Bill No. 2704, and K.S.A. 2005 Supp. 21-4619, as amended by Section 21 of 2006 Senate Bill No. 418, and 22-2410, as amended by section 8 of 2006 Senate Bill No. 196,"; in line 22, by striking "statute book" and inserting "Kansas register";

In the title, in line 11, by striking "docket"; in line 12, preceding "amending" by inserting "employment of retired judges; providing employer contribution for health insurance; court of appeals; child exchange and visitation centers,"; also in line 12, following "K.S.A." by inserting "20-2622,"; also in line 12, by striking all following "60-2001," and inserting "60-2005, 61-4001, 75-3120h and 75-3120l"; in line 13, by striking "21-4619, 22-2410" and inserting "20-3002, 28-110"; in line 14, after "75-3120k" by inserting "and K.S.A. 61-2704, as amended by section 1 of 2006 House Bill No. 2704, and K.S.A. 2005 Supp. 21-4619, as amended by section 21 of 2006 Senate Bill No. 418 and 22-2410, as amended by section 8 of 2006 Senate Bill No. 196";

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

MICHAEL O'NEAL

LANCE KINZER

JANICE L. PAULS

Conferees on part of House

JOHN VRATIL

TERRY BRUCE

GRETA GOODWIN

Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **H Sub for SB 337**.

On roll call, the vote was: Yeas 31, Nays 9, 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, McGinn, Morris, Petersen, Pine, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, Journey, Lee, O'Connor, Ostmeyer, Palmer, Pyle, Schmidt D, Taddiken.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2129**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 17 through 43;

On page 2, by striking all in lines 1 through 17 and inserting the following:

"Section 1. K.S.A. 2005 Supp. 22-4507, as amended by section 5 of 2006 Senate Bill No. 505, is hereby amended to read as follows: 22-4507. (a) An attorney, other than a public defender or assistant public defender or contract counsel, who is appointed by the court to perform services for an indigent person, as provided by ~~this act~~ *article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto*, shall at the conclusion of such service or any part thereof be entitled to compensation for such services and to be reimbursed for expenses reasonably incurred by such person in performing such services. Compensation for services shall be paid in accordance with standards and guidelines contained in rules and regulations adopted by the state board of indigents' defense services under this section.

(b) Claims for compensation and reimbursement shall be certified by the claimant and shall be presented to the court at sentencing. A supplemental claim may be filed at such later time as the court may in the interest of justice determine if good cause is shown why the claim was not presented at sentencing. In accordance with standards and guidelines adopted by the state board of indigents' defense services under this section, all such claims shall be reviewed and approved by one or more judges of the district court before whom the service was performed, or, in the case of proceedings in the court of appeals, by the chief judge of the court of appeals and in the case of proceedings in the supreme court, by the departmental justice for the department in which the appeal originated. Each claim shall be supported by a written statement, specifying in detail the time expended, the services rendered, the expenses incurred in connection with the case and any other compensation or reimbursement received. When properly certified and reviewed and approved, each claim for compensation and reimbursement shall be filed in the office of the state board of indigents' defense services. If the claims meet the standards established by the board, the board shall authorize payment of the claim.

(c) *Such attorney shall be compensated at the rate of \$80 per hour.* If the state board of indigents' defense services determines that the appropriations for indigents' defense services or the moneys allocated by the board for a county or judicial district will be insufficient in any fiscal year to pay in full claims filed and reasonably anticipated to be filed in such year under this section, the board may adopt a formula for prorating the payment of pending and anticipated claims under this section.

(d) The state board of indigents' defense services may make expenditures for payment of claims filed under this section from appropriations for the current fiscal year regardless of when the services were rendered.

(e) The state board of indigents' defense services shall adopt rules and regulations prescribing standards and guidelines governing the filing, processing and payment of claims under this section.

(f) An attorney, other than a public defender, assistant public defender or contract counsel, who is appointed by the court to perform services for an indigent person and who

accesses electronic court records for an indigent person, as provided by this act, shall be exempt from paying fees to access electronic court records.”;

Also on page 2, in line 18, after “22-4507” by inserting “, as amended by section 5 of 2006 Senate Bill No. 505,”;

In the title, in line 13, after “22-4507” by inserting “, as amended by section 5 of 2006 Senate Bill No. 505,”;

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

JOHN VRATIL
TERRY BRUCE
GRETA GOODWIN
Conferees on part of Senate

MICHAEL O'NEAL
LANCE KINZER
JANICE L. PAULS
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2129**.

On roll call, the vote was: Yeas 33, Nays 6, Present and Passing 1, Absent or Not Voting 0.

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

Nays: Huelskamp, Ostmeier, Palmer, Pyle, Schmidt D, Taddiken.

Present and Passing: Journey.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2541**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 1, in line 43, before “when”, by inserting “of a person 15 years of age”;

On page 2, in line 1, by striking “under the age of 16 years” and inserting “15 years of age”;

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

PETE BRUNGARDT
ROGER P. REITZ
ANTHONY HENSLEY
Conferees on part of Senate

JOHN EDMONDS
ARLEN SIEGFREID
TOM BURROUGHS
Conferees on part of House

Senator Brungardt moved the Senate adopt the Conference Committee Report on **HB 2541**.

Senator O'Connor offered a substitute motion the senate not adopt the Conference Committee Report and a new conference committee be appointed. The motion failed.

On roll call on **HB 2541**, the vote was: Yeas 36, Nays 4, 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, Journey, Kelly, Lee, McGinn, Morris, Palmer, Petersen, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Huelskamp, O'Connor, Ostmeyer, Pyle.
The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **HB 2541** because a girl under 15 years of age, who will not be able to get married in Kansas, will be under extra pressure to obtain an abortion. Kansas has a good law now that allowed a young couple from Nebraska to get married in Kansas when their own state prohibited it. The expectation is that their marriage has as good a chance at success as any of the rest of us who has a "normal" marriage.—Kay O'Connor

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Steineger, Gilstrap and Haley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1855—

A RESOLUTION congratulating and commending the Kansas City, Kansas, Community College forensics team.

WHEREAS, The Kansas City, Kansas, Community College forensics team is the top community college forensics team in the nation, after attaining first place in the American Forensics Association-National Individual Events Competition at the University of Florida in Gainesville, Florida, and thereafter winning first place in the Phi Rho Pi national tournament held recently at the Hyatt-Regency Hotel in Kansas City; and

WHEREAS, Three members of the team won gold medals: Leslie Goodlin, a sophomore from Lansing, won the gold medal in Prose; Wendy Cochran, a freshman from Burlington, Iowa, won the gold medal in Impromptu Speaking and Chris Dark, a freshman from North Kansas City, won the gold medal in Program Oral Interpretation. Chris Dark also won a silver medal in Prose and Brett Culver, a sophomore from Lansing, won a bronze medal in Poetry. Brett Culver of Lansing and Danny Morris of Tonganoxie teamed up with the debate team to take sweepstakes honors. Becky Shephard and Dan Morris, both of Tonganoxie also competed. These performances helped the college win the overall sweepstakes award for forensics and debate combined as the debaters also won a third consecutive national title. These awards followed the community college national championship in the American Forensics Association-National Individual Events Competition held earlier at the University of Florida; and

WHEREAS, The team was coached by Tom Murdock; and

WHEREAS, These individual winners at the national forensics competition, plus the efforts of the college debate team, bring great credit upon themselves and their families, coach and college, and are deserving of being applauded for the hard work and effort required to excel in this activity: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Kansas City, Kansas, forensics team upon being the top community college forensics team and wish them continued success.

On emergency motion of Senator Steineger **SR 1855** was adopted unanimously.

Senators Journey, Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, D Schmidt, V Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1856—

A RESOLUTION congratulating and commending the 2005-2006 Wichita State University mens basketball team and Head Coach Mark Turgeon.

WHEREAS, The Wichita State University mens basketball team was the Missouri Valley Conference champion this year, the first time since 1983, and was selected as an at-large participant in the 2006 NCAA national basketball tournament; and

WHEREAS, At the big dance the team surprised most of America by defeating Seton Hall 86 to 66 and Tennessee 80 to 73. The team advanced to the Sweet 16 but was defeated by George Mason, a Final Four participant, 63 to 55 in the Washington, D.C. regional tournament. The team ended the season ranked number 21 in the final ESPN/USA Today Coaches Poll—the first top 25 rating for the team since 1984; and

WHEREAS, Paul Miller was named an honorable mention All-American, as well as the Missouri Valley Conference Player of the Year. He was also named as a first team Scholar-Athlete. P.J. Cousinard and Kyle Wilson were both honorable mentions to the All-Missouri Valley Conference team, Karon Bradley was selected to the Missouri Valley Conference All-Newcomer team and Ryan Martin to the All-Missouri Valley Conference Bench team; and

WHEREAS, Head Coach Mark Turgeon was named the Missouri Valley Conference Rawlings Coach of the Year and is the only Shocker coach to improve his win record for five consecutive years: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the 2005-2006 Wichita State University mens basketball team and Head Coach Mark Turgeon upon being the Missouri Valley Conference champion and in advancing in the NCAA national tournament to the Sweet 16, and wish them continued success in the future.

On emergency motion of Senator Journey **SR 1856** was adopted unanimously.

CONSIDERATION OF MOTIONS AND SENATE RESOLUTIONS

Motion Pursuant to Senate Rule 11 Committee Action on Bills and Resolutions

Senator Pyle moved pursuant to Rule 11 of the Rules of the Kansas State Senate that House Bill No. 2792, AN ACT relating to abortions and concerning minors, having been referred to the Senate Committee on Public Health and Welfare be withdrawn from that committee and placed upon the Kansas State Senate calendar for the 3rd day of May, 2006, under the heading of General Orders subsequent to adoption of this motion by the Senate.

In support of this motion:

In 2004, KDHE reported 785 abortions in Kansas were performed on teens aged 12-17. 326 were from Kansas, 330 from Missouri.

HB 2792, dubbed the Teen Protection Act, passed the House by a vote of 98-27. HB 2792 will tighten up current Kansas abortion provisions to protect pregnant teenagers and parental rights.

HB 2792 has become even more important due to the ruling of Judge Marten in the 'Aid for Women' lawsuit. Marten decreed that mandatory reporters, including abortion providers, have the discretion to determine if a sexually active teen is "injured" before they contact authorities about child rape.

While specific duties of counselors and abortion clinics are appealed through the courts, teens who are coerced to lie about the age of their unborn baby's father can easily undermine the way Kansas abortion laws for minors was intended to work.

K.S.A. 65-5704, requires a teen seeking an abortion to be initially accompanied inside the clinic by an adult companion.

HB 2792 would require that the teen and her companion present a valid I.D.

If a parent or guardian is not the adult, HB 2792 would require a statement from the companion adult about his/her relationship to the pregnant teen and her baby's father (if known). While the statement is not an affidavit, it can help alert the clinic to an irregular situation. Nationwide, too many teens are walking into clinics with their predator, or his accomplice, masquerading as the teen's blood relative or best friend.

HB 2792 would permit parents or guardians to pursue civil remedies against individuals, including the abortionist and clinic staff, who intentionally undermine parental involvement and violate the teen's legal rights. A similar law was passed in Missouri in 2005 and has

passed the first court challenge. At the national level, an act to prevent children from being taken across state lines for secret abortions has passed the House and awaits Senate action.

HB 2792 would exempt parents or guardians of a minor from paying for medical treatment caused by an abortion if they had no knowledge or notification of the minor's abortion. Oklahoma passed a similar law in 2001, ordering the abortionist to pay for abortion-caused medical treatment if they violate the parental involvement provision. (A legal challenge in the 10th Circuit, that which governs Kansas, was rebuffed.)

K.S.A. 65-6705, permits a teen judicial bypass, or waiver, of the ordinarily required parental notification. The bypass may be sought for maturity of the teen or a situation where it would not be in her best interest to notify a parent.

HB 2792 would allow the clinic staff member to explain the bypass, and contact the court, but prohibits any clinic staff member from being selected to accompany the teen through the judicial bypass process.

HB 2792 will require the court involved in the bypass to report to authorities any evidence of suspected child abuse that comes to their attention in the confidential bypass procedure. During this closed session, the teen's reason for avoiding parental notice may reveal an abusive situation from which she may need to be protected and/or removed.

HB 2792 will require the court(s) granting bypasses to send statistical reports to KDHE including the number of petitions filed and granted, the reasons granted and any subsequent actions taken in response to protecting the teen from domestic or predator abuse. The report will also include the teen's age, state of residence, and her disability status (if any).

The bypass procedure has been in effect since 1992 and yet no data is available from which to assess whether the law is abused or overused. The experience of other states indicates that predators can manipulate state laws.

Parental involvement is nearly always the best situation for a teen pregnancy. The judicial bypass was not intended to be an often used, or flippantly chosen, option. Certainly, HB 2792, will enhance protection for families and close the door to any abuse of the system.—
DENNIS PYLE

HB 2792. An act relating to abortions; concerning minors; amending K.S.A. 65-6704 and 65-6705 and repealing the existing sections.

On roll call, the vote was: Yeas 22, Nays 18, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Gilstrap, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeier, Palmer, Petersen, Pine, Pyle, Taddiken, Umbarger, Wagle, Wilson.

Nays: Allen, Betts, Brungardt, Emler, Francisco, Goodwin, Haley, Hensley, Kelly, Lee, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Vratil, Wysong.

Having failed to receive the required 24 votes to withdraw from committee, the motion on **HB 2792** failed.

On motion of Senator D. Schmidt, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with President Morris in the chair.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **House Substitute for SB 52.**

The House adopts the conference committee report on **SB 366.**

The House adopts the conference committee report on **SB 506.**

The House adopts the conference committee report on **SB 528.**

The House adopts the conference committee report on **HB 2748**.

The House not adopts the conference committee report on **HB 2576**, requests a conference and appoints Representatives O'Neal, Kinzer and Pauls as fourth conferees on the part of the House.

The House announces the appointment of Representatives Decker, Hayzlett and Crow to replace Representatives Neufeld, Hutchins and Feuerborn as conferees on **SB 549**.

The House announces the appointment of Representatives Decker, Hayzlett and Crow to replace Representatives Vickrey, Huebert and Sawyer as conferees on **HB 2809**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub for SB 52; SB 366, SB 506, SB 528**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 52**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 1, in line 18, by striking "board shall select two or more" and inserting "state board of regents shall select not more than two of the"; in line 20, before the period, by inserting "in accordance with this section. The state board of regents shall select one of the following state educational institutions to be a pilot university: Emporia state university, Fort Hays state university or Pittsburg state university. The state board of regents may select one of the following state educational institutions to be a pilot university: Kansas state university, Wichita state university or the university of Kansas. If the state board of regents does not select Kansas state university, Wichita state university or the university of Kansas to be a pilot university, then the state board of regents shall select a second one of the following state educational institutions to be a pilot university: Emporia state university, Fort Hays state university or Pittsburg state university.";

On page 2, in line 5, before "2009" by inserting "2007, 2008,"; following line 13, by inserting the following to read as follows:

"(c) The director of purchases shall submit a report to the legislature at the beginning of the regular session in 2007, 2008, 2009 and 2010 regarding the impact of the pilot project conducted pursuant to subsection (a) on the purchasing system of the department of administration and on the purchases and purchasing activities of state agencies other than pilot universities, including information regarding amounts and kinds of expenditures by such other state agencies and regarding other issues or problems encountered as a result of the pilot project.";

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

MELVIN NEUFELD
BRENDA LANDWEHR
BILL FEUERBORN
Conferees on part of House

DWAYNE UMBARGER
JAY SCOTT EMLER
JIM BARONE
Conferees on part of Senate

Senator Umbarger moved the Senate adopt the Conference Committee Report on **H Sub for SB 52**.

Senator Wagle offered a substitute motion the senate not adopt the Conference Committee Report and a new conference committee be appointed. The motion failed.

On roll call on **H Sub for SB 52**, the vote was: Yeas 25, Nays 15, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barnett, Barone, Betts, Bruce, Brungardt, Emler, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steiner, Teichman, Umbarger, Vratil, Wysong.

Nays: Apple, Brownlee, Donovan, Francisco, Huelskamp, Jordan, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Taddiken, Wagle, Wilson.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 366**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 22 through 43;

On page 2, by striking all in lines 1 through 22;

And by renumbering the remaining sections accordingly;

On page 3, by striking all in lines 2 through 5; after line 16 by inserting the following:

“(c) Nothing in this section shall require a person to retreat if such person is using force to protect such person or a third person.”;

Also on page 3, after line 26, by inserting the following:

“(c) Nothing in this section shall require a person to retreat if such person is using force to protect such person’s dwelling or occupied vehicle.”;

Also on page 3, by striking all in lines 27 through 43;

On page 4, by striking all in line 1;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 2, by striking “1” and inserting “5”; also in line 2, by striking “5” and inserting “9”; in line 5, by striking “1” and inserting “5”; also in line 5, by striking “5” and inserting “9”;

On page 6, in line 11, by striking “2” and inserting “6”; in line 17, by striking “1” and inserting “5”; also in line 17, by striking “5” and inserting “9”;

On page 8, in line 3, by striking “subsection” and inserting “subsections”; also in line 3, following “(c)(3)” by inserting “and (e)”;

On page 10, following line 6, by inserting the following:

“(e) Upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court may consider such mitigation in determining whether substantial and compelling reasons for a departure exist. In considering this mitigating factor, the court may consider the following:

(i) The court’s evaluation of the significance and usefulness of the defendant’s assistance, taking into consideration the prosecutor’s evaluation of the assistance rendered;

(ii) the truthfulness, completeness and reliability of any information or testimony provided by the defendant;

(iii) the nature and extent of the defendant’s assistance;

(iv) any injury suffered, or any danger or risk of injury to the defendant or the defendant’s family resulting from such assistance; and

(v) the timeliness of the defendant’s assistance.

Sec. 14. K.S.A. 16-305 is hereby amended to read as follows: 16-305. Every person who violates any provision of this act: (a) Other than by misappropriating funds in violation of an agreement shall be guilty of a misdemeanor, and, upon conviction shall be fined not less than \$100 nor more than \$500, or shall be imprisoned for not less than 10 days nor more than 90 days, or both; and (b) by misappropriating funds in violation of an agreement in an amount:

(1) Of \$25,000 or more shall be guilty of a severity level 7, nonperson felony;

(2) of at least ~~\$500~~ \$1,000 but less than \$25,000 shall be guilty of a severity level 9, nonperson felony; or

(3) of less than ~~\$500~~ \$1,000 shall be guilty of a class A nonperson misdemeanor.

Sec. 15. K.S.A. 19-3519 is hereby amended to read as follows: 19-3519. (a) All claims, accounts and necessary expenses of the water district lawfully incurred and approved shall be paid from appropriate available funds in bank accounts of the water district by voucher check supported by an appropriate purchase order or statement of service. All such claims shall be presented in writing with a full account of the items and may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information.

(b) (1) Any person who obtains money from the district by intentionally making a fraudulent claim for a sum of less than ~~\$500~~ \$1,000 is guilty of a class A nonperson misdemeanor.

(2) Any person who obtains money from the district by intentionally making a fraudulent claim for at least ~~\$500~~ \$1,000 but less than \$25,000 is guilty of a severity level 9, nonperson felony.

(3) Any person who obtains money from the district by intentionally making a fraudulent claim for \$25,000 or more is guilty of a severity level 7, nonperson felony.

(c) The water district board shall see that there is kept a correct record of all voucher checks issued showing the number, date and amount thereof and the name of the person or persons to whom such checks are made payable and with appropriate reference to the applicable purchase order or other claim, account or expense record, including payroll records. Any employee or officer authorized to sign or countersign voucher checks shall be covered by a surety bond in the form and amount as determined by the board.

Sec. 16. K.S.A. 2005 Supp. 21-3437 is hereby amended to read as follows: 21-3437. (a) Mistreatment of a dependent adult is knowingly and intentionally committing one or more of the following acts:

(1) Infliction of physical injury, unreasonable confinement or cruel punishment upon a dependent adult;

(2) taking unfair advantage of a dependent adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person; or

(3) omitting or depriving treatment, goods or services by a caretaker or another person which are necessary to maintain physical or mental health of a dependent adult.

(b) No dependent adult is considered to be mistreated for the sole reason that such dependent adult relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult is a member or adherent.

(c) For purposes of this section: "Dependent adult" means an individual 18 years of age or older who is unable to protect their own interest. Such term shall include:

(1) Any resident of an adult care home including but not limited to those facilities defined by K.S.A. 39-923 and amendments thereto;

(2) any adult cared for in a private residence;

(3) any individual kept, cared for, treated, boarded or otherwise accommodated in a medical care facility;

(4) any individual with mental retardation or a developmental disability receiving services through a community mental retardation facility or residential facility licensed under K.S.A. 75-3307b and amendments thereto;

(5) any individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or

(6) any individual kept, cared for, treated, boarded or otherwise accommodated in a state psychiatric hospital or state institution for the mentally retarded.

(d) (1) Mistreatment of a dependent adult as defined in subsection (a)(1) is a severity level 6, person felony.

(2) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 7, person felony if the aggregate amount of the value of the resources is \$25,000 or more.

(3) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 9, person felony if the aggregate amount of the value of the resources is at least ~~\$500~~ \$1,000 but less than \$25,000.

(4) Mistreatment of a dependent adult as defined in subsection (a)(2) is a class A person misdemeanor if the aggregate amount of the value of the resources is less than ~~\$500~~ \$1,000.

(5) Mistreatment of a dependent adult as defined in subsection (a)(3) is a class A person misdemeanor.

(6) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 9, person felony if the aggregate amount of the value of the resources is less than ~~\$500~~ \$1,000 and committed by a person who has, within five years immediately preceding commission of the crime, been convicted of mistreatment of a dependent adult two or more times.

Sec. 17. K.S.A. 21-3720 is hereby amended to read as follows: 21-3720. (a) Criminal damage to property is by means other than by fire or explosive:

(1) Intentionally injuring, damaging, mutilating, defacing, destroying, or substantially impairing the use of any property in which another has an interest without the consent of such other person; or

(2) injuring, damaging, mutilating, defacing, destroying, or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder.

(b) (1) Criminal damage to property is a severity level 7, nonperson felony if the property is damaged to the extent of \$25,000 or more.

(2) Criminal damage to property is a severity level 9, nonperson felony if the property is damaged to the extent of at least ~~\$500~~ \$1,000 but less than \$25,000.

(3) Criminal damage to property is a class B nonperson misdemeanor if the property damaged is of the value of less than ~~\$500~~ \$1,000 or is of the value of ~~\$500~~ \$1,000 or more and is damaged to the extent of less than ~~\$500~~ \$1,000.

Sec. 18. K.S.A. 21-3729 is hereby amended to read as follows: 21-3729. (a) Criminal use of a financial card is any of the following acts done with intent to defraud and for the purpose of obtaining money, goods, property, services or communication services:

(1) Using a financial card without the consent of the cardholder; or

(2) knowingly using a financial card, or the number or description thereof, which has been revoked or canceled; or

(3) using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.

(b) For the purposes of this section:

(1) "Financial card" means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property, services or communication services or to conduct other financial transactions.

(2) "Cardholder" means the person or entity to whom or for whose benefit a financial card is issued.

(c) For the purposes of subsection (a)(2), a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.

(d) (1) Criminal use of a financial card is a severity level 7, nonperson felony if the money, goods, property, services or communication services obtained within any seven-day period are of the value of \$25,000 or more.

(2) Criminal use of a financial card is a severity level 9, nonperson felony if the money, goods, property, services or communication services obtained within any seven-day period are of the value of at least ~~\$500~~ \$1,000 but less than \$25,000.

(3) Criminal use of a financial card is a class A nonperson misdemeanor if the money, goods, property, services or communication services obtained within a seven-day period are of the value of less than ~~\$500~~ \$1,000.

Sec. 19. K.S.A. 21-3734 is hereby amended to read as follows: 21-3734. (a) Impairing a security interest is:

(1) Damaging, destroying or concealing any personal property subject to a security interest with intent to defraud the secured party;

(2) selling, exchanging or otherwise disposing of any personal property subject to a security interest without the written consent of the secured party, where such sale, exchange

or other disposition is not authorized by the secured party under the terms of the security agreement; or

(3) failure to account to the secured party for the proceeds of the sale, exchange or other disposition of any personal property subject to a security interest, where such sale, exchange or other disposition is authorized and such accounting for proceeds is required by the secured party under the terms of the security agreement or otherwise.

(b) (1) Impairing a security interest is a severity level 7, nonperson felony when the personal property subject to the security interest is of the value of \$25,000 or more and is subject to a security interest of \$25,000 or more.

(2) Impairing a security interest is a severity level 9, nonperson felony when the personal property subject to the security interest is of the value of at least ~~\$500~~ \$1,000 and is subject to a security interest of at least ~~\$500~~ \$1,000 and either the value of the property or the security interest is less than \$25,000.

(3) Impairing a security interest is a class A nonperson misdemeanor when the personal property subject to the security interest is of the value of less than ~~\$500~~ \$1,000, or of the value of ~~\$500~~ \$1,000 or more but subject to a security interest of less than ~~\$500~~ \$1,000.

Sec. 20. K.S.A. 2005 Supp. 21-3763 is hereby amended to read as follows: 21-3763. (a) Counterfeiting is intentionally manufacturing, using, displaying, advertising, distributing, offering for sale, selling or possessing with intent to sell or distribute any item or services bearing or identified by a counterfeit mark.

(b) A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess such items with intent to sell or distribute.

(c) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

(d) As used in this section:

(1) "Counterfeit mark" means:

(A) Any unauthorized reproduction or copy of intellectual property; or

(B) intellectual property affixed to any item knowingly sold, offered for sale, manufactured or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property.

(2) "Intellectual property" means any trademark, service mark or trade name as such terms are defined in K.S.A. 2005 Supp. 81-202, and amendments thereto.

(3) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

(4) The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.

(e) (1) Counterfeiting of the retail value of less than ~~\$500~~ \$1,000 is a class A nonperson misdemeanor.

(2) Counterfeiting of the retail value of at least ~~\$500~~ \$1,000 but less than \$25,000; that involves more than 100 but less than 1,000 items bearing a counterfeit mark; or on a second violation is a severity level 9, nonperson felony.

(3) Counterfeiting of the retail value of \$25,000 or more; that involves 1,000 or more items bearing a counterfeit mark; or on a third or subsequent violation is a severity level 7, nonperson felony.

(f) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 21. K.S.A. 2005 Supp. 21-3846 is hereby amended to read as follows: 21-3846. (a) Making a false claim, statement, or representation to the medicaid program is, knowingly and with intent to defraud, engaging in a pattern of making, presenting, submitting, offering or causing to be made, presented, submitted or offered:

(1) Any false or fraudulent claim for payment for any goods, service, item, facility, accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(2) any false or fraudulent statement or representation for use in determining payments which may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(3) any false or fraudulent report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(4) any false or fraudulent statement or representation made in connection with any report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(5) any statement or representation for use by another in obtaining any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, knowing the statement or representation to be false, in whole or in part, by commission or omission, whether or not the claim is allowed or allowable;

(6) any claim for payment, for any goods, service, item, facility, or accommodation, which is not medically necessary in accordance with professionally recognized parameters or as otherwise required by law, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable; or

(7) any wholly or partially false or fraudulent book, record, document, data or instrument, which is required to be kept or which is kept as documentation for any goods, service, item, facility or accommodation or of any cost or expense claimed for reimbursement for any goods, service, item, facility or accommodation for which payment is, has been, or can be sought, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable.

(8) Any wholly or partially false or fraudulent book, record, document, data or instrument to any properly identified law enforcement officer, any properly identified employee or authorized representative of the attorney general, or to any properly identified employee or agent of the department of social and rehabilitation services, or its fiscal agent, in connection with any audit or investigation involving any claim for payment or rate of payment for any goods, service, item, facility or accommodation payable, in whole or in part, under the medicaid program.

(9) Any false or fraudulent statement or representation made, with the intent to influence any acts or decision of any official, employee or agent of a state or federal agency having regulatory or administrative authority over the Kansas medicaid program.

(b) (1) As defined by subsection (a)(1) through (a)(7), making a false claim, statement or representation to the medicaid program where the aggregate amount of payments illegally claimed is \$25,000 or more is a severity level 7, nonperson felony.

(2) As defined by subsection (a)(1) through (a)(7), making a false claim, statement or representation to the medicaid program where the aggregate amount of payments illegally claimed is at least ~~\$500~~ \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.

(3) As defined by subsection (a)(1) through (a)(7), making a false claim, statement or representation to the medicaid program where the aggregate amount of payments illegally claimed is less than ~~\$500~~ \$1,000 is a class A misdemeanor.

(4) As defined by subsections (a)(8) and (a)(9), making a false claim, statement or representation to the medicaid program is a severity level 9, nonperson felony.

(c) In determining what is medically necessary pursuant to subsection (a)(6) of this section the attorney general may contract with or consult with qualified health care providers and other qualified individuals to identify professionally recognized parameters for the diagnosis or treatment of the recipient's condition, illness or injury.

Sec. 22. K.S.A. 21-3902 is hereby amended to read as follows: 21-3902. (a) Official misconduct is any of the following acts committed by a public officer or employee in the officer or employee's public capacity or under color of the officer or employee's office or employment:

(1) Using or authorizing the use of any aircraft, as defined by K.S.A. 3-201, and amendments thereto, vehicle, as defined by K.S.A. 8-1485, and amendments thereto, or vessel, as

defined by K.S.A. 32-1102, and amendments thereto, under the officer's or employee's control or direction, or in the officer's or employee's custody, exclusively for the private benefit or gain of the officer or employee or another.

(2) Knowingly and willfully failing to serve civil process when required by law.

(3) Using confidential information acquired in the course of and related to the officer's or employee's office or employment for the private benefit or gain of the officer or employee or another or to maliciously cause harm to another. As used in this section, "confidential" means any information that is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and amendments thereto.

(4) Except as authorized by law, knowingly, willfully and with the intent to reduce or eliminate competition among bidders or prospective bidders on any contract or proposed contract: (A) Disclosing confidential information regarding proposals or communications from bidders or prospective bidders on any contract or proposed contract; (B) accepting any bid or proposal on a contract or proposed contract after the deadline for acceptance of such bid or proposal; or (C) altering any bid or proposal submitted by a bidder on a contract or proposed contract.

(5) Except as authorized by law, knowingly destroying, tampering with or concealing evidence of a crime.

(6) Knowingly and willfully submitting to a governmental entity a claim for expenses which is false or duplicates expenses for which a claim is submitted to such governmental entity, another governmental or private entity.

(b) The provisions of subsection (a)(1) shall not apply to any use of persons or property which:

(1) At the time of the use, is authorized by law or by formal written policy of the governmental entity; or

(2) constitutes misuse of public funds, as defined in K.S.A. 21-3910 and amendments thereto.

(c) (1) Official misconduct as defined in subsections (a)(1) through (a)(4) is a class A nonperson misdemeanor.

(2) Official misconduct as defined in subsection (a)(5) is: (A) A severity level 8, nonperson felony if the evidence is evidence of a crime which is a felony; and (B) a class A nonperson misdemeanor if the evidence is evidence of a crime which is a misdemeanor.

(3) Official misconduct as defined in subsection (a)(6) is: (A) A severity level 7, nonperson felony if the claim is for \$25,000 or more; (B) a severity level 9, nonperson felony if the claim is for at least ~~\$500~~ \$1,000 but less than \$25,000; and (C) a class A nonperson misdemeanor for a claim of less than ~~\$500~~ \$1,000.

(4) Upon conviction of official misconduct a public officer or employee shall forfeit such officer or employee's office or employment.

Sec. 23. K.S.A. 21-3904 is hereby amended to read as follows: 21-3904. (a) Presenting a false claim is knowingly and with intent to defraud presenting a claim or demand which is false in whole or in part, to a public officer or body authorized to audit, allow or pay such claim.

(b) (1) Presenting a false claim for \$25,000 or more is a severity level 7, nonperson felony.

(2) Presenting a false claim for at least ~~\$500~~ \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.

(3) Presenting a false claim for less than ~~\$500~~ \$1,000 is a class A nonperson misdemeanor.

Sec. 24. K.S.A. 21-3905 is hereby amended to read as follows: 21-3905. (a) Permitting a false claim is the auditing, allowing, or paying of any claim or demand made upon the state or any subdivision thereof or other governmental instrumentality within the state by a public officer or public employee who knows such claim or demand is false or fraudulent in whole or in part.

(b) (1) Permitting a false claim for \$25,000 or more is a severity level 7, nonperson felony.

(2) Permitting a false claim for at least ~~\$500~~ \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.

(3) Permitting a false claim for less than ~~\$500~~ \$1,000 is a class A nonperson misdemeanor.

(4) Upon conviction of permitting a false claim, a public officer or public employee shall forfeit the officer or employee's office or employment.

Sec. 25. K.S.A. 21-4111 is hereby amended to read as follows: 21-4111. (a) Criminal desecration is:

(1) Obtaining or attempting to obtain unauthorized control of a dead body or remains of any human being or the coffin, urn or other article containing a dead body or remains of any human being;

(2) by means other than by fire or explosive:

(A) Damaging, defacing or destroying the flag, ensign or other symbol of the United States or this state in which another has a property interest without the consent of such other person;

(B) damaging, defacing or destroying any public monument or structure;

(C) damaging, defacing or destroying any tomb, monument, memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other property in a cemetery; or

(D) damaging, defacing or destroying any place of worship.

(b) (1) Criminal desecration as described in subsections (a)(2)(B), (a)(2)(C) and (a)(2)(D) is:

(A) A severity level 7, nonperson felony if the property is damaged to the extent of \$25,000 or more;

(B) a severity level 9, nonperson felony if the property is damaged to the extent of at least ~~\$500~~ \$1,000 but less than \$25,000; and

(C) a class A nonperson misdemeanor if the property is damaged to the extent of less than ~~\$500~~ \$1,000.

(2) Criminal desecration as described in subsections (a)(1) and (a)(2)(A) is a class A nonperson misdemeanor.

Sec. 26. K.S.A. 2005 Supp. 32-1005 is hereby amended to read as follows: 32-1005. (a) Commercialization of wildlife is knowingly committing any of the following, except as permitted by statute or rules and regulations:

(1) Capturing, killing or possessing, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(2) selling, bartering, purchasing or offering to sell, barter or purchase, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(3) shipping, exporting, importing, transporting or carrying; causing to be shipped, exported, imported, transported or carried; or delivering or receiving for shipping, exporting, importing, transporting or carrying all or any part of any wildlife protected by this section, for profit or commercial purposes; or

(4) purchasing, for personal use or consumption, all or any part of any wildlife protected by this section.

(b) The wildlife protected by this section and the minimum value thereof are as follows:

(1) Eagles, ~~\$500~~ \$1,000;

(2) deer or antelope, \$400;

(3) elk or buffalo, \$600;

(4) furbearing animals, \$25;

(5) wild turkey, \$75;

(6) owls, hawks, falcons, kites, harriers or ospreys, \$200;

(7) game birds, migratory game birds, resident and migratory nongame birds, game animals and nongame animals, \$20 unless a higher amount is specified above;

(8) fish and mussels, the value for which shall be no less than the value listed for the appropriate fish or mussels species in the monetary values of freshwater fish or mussels and fish kill counting guidelines of the American fisheries society, special publication number 30;

(9) turtles, \$10 each for unprocessed turtles or \$8 per pound or fraction of a pound for processed turtle parts;

(10) bullfrogs, \$2, whether dressed or not dressed;

(11) any wildlife classified as threatened or endangered, \$200 unless a higher amount is specified above; and

(12) any other wildlife not listed above, \$10.

(c) Possession of wildlife, in whole or in part, captured or killed in violation of law and having an aggregate value of ~~\$500~~ \$1,000 or more, as specified in subsection (b), is prima facie evidence of possession for profit or commercial purposes.

(d) Commercialization of wildlife having an aggregate value of ~~\$500~~ \$1,000 or more, as specified in subsection (b), is a severity level 10, nonperson felony. Commercialization of wildlife having an aggregate value of less than ~~\$500~~ \$1,000, as specified in subsection (b), is a class A nonperson misdemeanor.

(e) In addition to any other penalty provided by law, a court convicting a person of the crime of commercialization of wildlife may:

(1) Confiscate all equipment used in the commission of the crime and may revoke for a period of up to 10 years all licenses and permits issued to the convicted person by the Kansas department of wildlife and parks; and

(2) order restitution to be paid to the Kansas department of wildlife and parks for the wildlife taken, which restitution shall be in an amount not less than the aggregate value of the wildlife, as specified in subsection (b).

(f) The provisions of this section shall apply only to wildlife illegally harvested and possessed by any person having actual knowledge that such wildlife was illegally harvested.

Sec. 27. K.S.A. 39-717 is hereby amended to read as follows: 39-717. (a) Assistance granted under the provisions of this act shall not:

(1) Be sold or otherwise disposed of to others by the client or by anyone else except under the rules and regulations of the secretary of social and rehabilitation services; or

(2) knowingly be purchased, acquired or possessed by anyone unless the purchase, acquisition or possession is authorized by the rules and regulations of the secretary of social and rehabilitation services or the laws under which the assistance was granted.

(b) (1) Any person convicted of violating the provisions of this section shall be guilty of a class A nonperson misdemeanor if the value of the assistance sold or otherwise disposed of, purchased, acquired or possessed was less than ~~\$500~~ \$1,000.

(2) Any person convicted of violating the provisions of this section shall be guilty of a severity level 9, nonperson felony if the value of the assistance sold or otherwise disposed of, purchased, acquired or possessed was at least ~~\$500~~ \$1,000 but less than \$25,000.

(3) Any person convicted of violating the provisions of this section shall be guilty of a severity level 7, nonperson felony if the value of the assistance sold or otherwise disposed of, purchased, acquired or possessed was \$25,000 or more.

(c) None of the money paid, payable, or to be paid, or any tangible assistance received under this act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Sec. 28. K.S.A. 40-247 is hereby amended to read as follows: 40-247. (a) An insurance agent or broker who acts in negotiating or renewing or continuing a contract of insurance including any type of annuity by an insurance company lawfully doing business in this state, and who receives any money or substitute for money as a premium for such a contract from the insured, whether such agent or broker shall be entitled to an interest in same or otherwise, shall be deemed to hold such premium in trust for the company making the contract. If such agent or broker fails to pay the same over to the company after written demand made upon such agent or broker, less such agent's or broker's commission and any deductions, to which by the written consent of the company such agent or broker may be entitled, such failure shall be prima facie evidence that such agent or broker has used or applied the premium for a purpose other than paying the same over to the company.

(b) (1) An agent or broker who violates the provisions of this section shall be guilty of a:

(A) Severity level 7, nonperson felony if the value of the insurance premium is \$25,000 or more;

(B) severity level 9, nonperson felony if the value of the insurance premium is at least ~~\$500~~ \$1,000 but less than \$25,000; or

(C) class A nonperson misdemeanor if the value of the insurance premium is less than ~~\$500~~ \$1,000.

(2) If the value of the insurance premium is less than ~~\$500~~ \$1,000 and such agent or broker has, within five years immediately preceding commission of the crime, been convicted of violating this section two or more times shall be guilty of a severity level 9, non-person felony.

Sec. 29. K.S.A. 40-2,118, as amended by section 1 of 2006 House Substitute for Senate Bill No. 207, is hereby amended to read as follows: 40-2,118. (a) For purposes of this act a "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.

(b) An insurer that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed shall provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may require.

(c) Any other person that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed may provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may request.

(d) (1) Each insurer shall have antifraud initiatives reasonably calculated to detect fraudulent insurance acts. Antifraud initiatives may include: fraud investigators, who may be insurer employees or independent contractors; or an antifraud plan submitted to the commissioner no later than July 1, 2007. Each insurer that submits an antifraud plan shall notify the commissioner of any material change in the information contained in the antifraud plan within 30 days after such change occurs. Such insurer shall submit to the commissioner in writing the amended antifraud plan.

The requirement for submitting any antifraud plan, or any amendment thereof, to the commissioner shall expire on the date specified in paragraph (2) of this subsection unless the legislature reviews and reenacts the provisions of paragraph (2) pursuant to K.S.A. 45-229 and amendments thereto.

(2) Any antifraud plan, or any amendment thereof, submitted to the commissioner for informational purposes only shall be confidential and not be a public record and shall not be subject to discovery or subpoena in a civil action unless following an in camera review, the court determines that the antifraud plan is relevant and otherwise admissible under the rules of evidence set forth in article 4, chapter 60 of the Kansas Statutes Annotated, and amendments thereto. The provisions of this paragraph shall expire on July 1, 2011, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2011.

(e) Except as otherwise specifically provided in K.S.A. 21-3718 and amendments thereto and K.S.A. 44-5,125 and amendments thereto, a fraudulent insurance act shall constitute a severity level 6, nonperson felony if the amount involved is \$25,000 or more; a severity level 7, nonperson felony if the amount is at least \$5,000 but less than \$25,000; a severity level 8, nonperson felony if the amount is at least \$1,000 but less than \$5,000; ~~a severity level 9, nonperson felony if the amount is at least \$500 but less than \$1,000;~~ and a class C nonperson misdemeanor if the amount is less than ~~\$500~~ \$1,000.

(f) In addition to any other penalty, a person who violates this statute shall be ordered to make restitution to the insurer or any other person or entity for any financial loss sustained as a result of such violation. An insurer shall not be required to provide coverage or pay any claim involving a fraudulent insurance act.

(g) This act shall apply to all insurance applications, ratings, claims and other benefits made pursuant to any insurance policy.

Sec. 30. K.S.A. 2005 Supp. 40-5013 is hereby amended to read as follows: 40-5013. (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of this act, the Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order any one or more of the following:

(1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of this act, the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation;

(2) suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of this act, the Kansas insurance statutes or any rule and regulation or order thereunder; or

(3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a penalty of up to \$500 for each violation or act, along with an additional penalty of up to \$100 for each week thereafter that such report or other information is not provided to the commissioner.

(c) If the commissioner makes written findings of fact that there is a situation involving an immediate danger to the public health, safety or welfare or the public interest will be irreparably harmed by delay in issuing an order under paragraph (3) of subsection (a), the commissioner may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto. Upon the entry of such an order, the commissioner shall promptly notify the person subject to the order that: (1) It has been entered; (2) the reasons therefor; and (3) that upon written request within 15 days after service of the order the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to the person subject to the order, by written findings of fact and conclusions of law, shall vacate, modify or make permanent the order.

(d) (1) Any person who violates the provisions of this act shall be guilty of a:

(A) Severity level 7, nonperson felony if the value of the viatical settlement contract is \$25,000 or more;

(B) severity level 9, nonperson felony if the value of the viatical settlement contract is at least ~~\$500~~ \$1,000 but less than \$25,000; or

(C) class A nonperson misdemeanor if the value of the viatical settlement contract is less than ~~\$500~~ \$1,000.

(2) If the value of the insurance premium is less than ~~\$500~~ \$1,000 and such agent or broker has, within five years immediately preceding commission of the crime, been convicted of violating this section two or more times shall be guilty of a severity level 9, nonperson felony.

(e) Restitution may be ordered in addition to, but not in lieu of, any other penalty imposed under this act.

Sec. 31. K.S.A. 44-5,125 is hereby amended to read as follows: 44-5,125. (a) (1) Any person who obtains or attempts to obtain workers compensation benefits for such person or another, or who denies or attempts to deny the obligation to make any payment of workers compensation benefits by knowingly or intentionally: (A) Making a false or misleading statement, (B) misrepresenting or concealing a material fact, (C) fabricating, altering, concealing or destroying a document; (D) receiving temporary total disability benefits or permanent total disability benefits to which they are not entitled, while employed, or (E) conspiring

with another person to commit any act described by paragraph (1) of this subsection (a), shall be guilty of:

(i) A class A nonperson misdemeanor, if the amount received as a benefit or other payment under the workers compensation act as a result of such act or the amount that the person otherwise benefited monetarily as a result of a violation of this subsection (a) is ~~\$500~~ \$1,000 or less;

(ii) a severity level 9, nonperson felony, if such amount is more than ~~\$500~~ \$1,000 but less than \$25,000;

(iii) a severity level 7, nonperson felony, if the amount is more than \$25,000, but less than \$50,000;

(iv) a severity level 6, nonperson felony if the amount is more than \$50,000, but less than \$100,000; or

(v) a severity level 5, nonperson felony if the amount is more than \$100,000.

(b) Any person who knowingly and intentionally presents a false certificate of insurance that purports that the presenter is insured under the workers compensation act, shall be guilty of a level 8, nonperson felony.

(c) A health care provider under the workers compensation act who knowingly and intentionally submits a charge for health care that was not furnished, shall be guilty of a level 9, nonperson felony.

(d) Any person who obtains or attempts to obtain a more favorable workers compensation insurance premium rate than that to which the person is entitled, who prevents, reduces, avoids or attempts to prevent, reduce or avoid the payment of any compensation under the workers compensation act, or who fails to communicate a settlement offer or similar information to a claimant under the workers compensation act, by, in any such case knowingly or intentionally: (1) Making a false or misleading statement; (2) misrepresenting or concealing a material fact; (3) fabricating, concealing or destroying a document; or (4) conspiring with another person or persons to commit the acts described in clause (1), (2) or (3) of this subsection shall be guilty of a level 9, nonperson felony.

(e) Any person who has received any amount of money as a benefit or other payment under the workers compensation act as a result of a violation of subsection (a) or (c) and any person who has otherwise benefited monetarily as a result of a violation of subsection (a) or (c) shall be liable to repay an amount equal to the amount so received by such person or the amount by which such person has benefited monetarily, with interest thereon. Any such amount, plus any accrued interest thereon, shall bear interest at the current rate of interest prescribed by law for judgments under subsection (e)(1) of K.S.A. 16-204 and amendments thereto per month or fraction of a month until repayment of such amount, plus any accrued interest thereon. The interest shall accrue from the date of overpayment or erroneous payment of any such amount or the date such person benefited monetarily.

(f) Any person aggrieved by a violation of subsection (a), (b), (c) or (d) shall have a cause of action against any other person to recover any amounts of money erroneously paid as benefits or any other amounts of money paid under the workers compensation act, and to seek relief for other monetary damages, for which liability has accrued under this section against such other person. Relief under this subsection is to be predicated upon exhaustion of administrative remedies available in K.S.A. 44-5,120 and amendments thereto.

(g) Nothing in this section shall prohibit an employer from exercising a right to reimbursement under K.S.A. 44-534a, 44-556 or 44-569a and amendments thereto.

(h) Prosecution for any crime under this section shall be commenced within five years subject to the time period set forth in subsection (8) of K.S.A. 21-3106 and amendments thereto.

Sec. 32. K.S.A. 2005 Supp. 47-1827 is hereby amended to read as follows: 47-1827. (a) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility, damage or destroy an animal facility or any animal or property in or on an animal facility.

(b) No person shall, without the effective consent of the owner, acquire or otherwise exercise control over an animal facility, an animal from an animal facility or other property from an animal facility, with the intent to deprive the owner of such facility, animal or property and to damage the enterprise conducted at the animal facility.

(c) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility:

(1) Enter an animal facility, not then open to the public, with intent to commit an act prohibited by this section;

(2) remain concealed, with intent to commit an act prohibited by this section, in an animal facility;

(3) enter an animal facility and commit or attempt to commit an act prohibited by this section; or

(4) enter an animal facility to take pictures by photograph, video camera or by any other means.

(d) (1) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility, enter or remain on an animal facility if the person:

(A) Had notice that the entry was forbidden; or

(B) received notice to depart but failed to do so.

(2) For purposes of this subsection (d), "notice" means:

(A) Oral or written communication by the owner or someone with apparent authority to act for the owner;

(B) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

(C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(e) No person shall, without the effective consent of the owner and with the intent to damage or destroy the field crop product, damage or destroy any field crop product that is grown in the context of a product development program in conjunction or coordination with a private research facility or a university or any federal, state or local governmental agency.

(f) No person shall, without the effective consent of the owner and with the intent to damage or destroy the field crop product, enter any property, with the intent to damage or destroy any field crop product that is grown in the context of a product development program in conjunction or coordination with a private research facility or a university or any federal, state or local governmental agency.

(g) (1) Violation of subsection (a) or (e) is a severity level 7, nonperson felony if the facility, animals, field crop product or property is damaged or destroyed to the extent of \$25,000 or more. Violation of subsection (a) or (e) is a severity level 9, nonperson felony if the facility, animals, field crop product or property is damaged or destroyed to the extent of at least ~~\$500~~ \$1,000 but less than \$25,000. Violation of subsection (a) or (e) is a class A nonperson misdemeanor if the facility, animals, field crop product or property damaged or destroyed is of the value of less than ~~\$500~~ \$1,000 or is of the value of ~~\$500~~ \$1,000 or more and is damaged to the extent of less than ~~\$500~~ \$1,000.

(2) Violation of subsection (b) is a severity level 10, nonperson felony.

(3) Violation of subsection (c) is a class A, nonperson misdemeanor.

(4) Violation of subsection (d) or (f) is a class B nonperson misdemeanor.

(h) The provisions of this section shall not apply to lawful activities of any governmental agency or employees or agents thereof carrying out their duties under law.

Sec. 33. K.S.A. 65-4150 is hereby amended to read as follows: 65-4150. As used in this act:

(a) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(b) "Deliver" or "delivery" means actual, constructive or attempted transfer from one person to another, whether or not there is an agency relationship.

(c) "Drug paraphernalia" means all equipment, ~~products~~ and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the uniform controlled substances act. "Drug paraphernalia" shall include, but is not limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

(3) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances used or intended for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances.

(7) Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marihuana.

(8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances.

(9) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances.

(10) Containers and other objects used or intended for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body.

(12) Objects used or intended for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) water pipes;

(C) carburetion tubes and devices;

(D) smoking and carburetion masks;

(E) roach clips (objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand);

(F) miniature cocaine spoons and cocaine vials;

(G) chamber pipes;

(H) carburetor pipes;

(I) electric pipes;

(J) air-driven pipes;

(K) chillums;

(L) bongs; and

(M) ice pipes or chillers.

(d) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

(e) "Simulated controlled substance" means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

Sec. 34. K.S.A. 2005 Supp. 65-7006 is hereby amended to read as follows: 65-7006. (a) It shall be unlawful for any person to possess ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance.

(b) It shall be unlawful for any person to market, sell, distribute, advertise, or label any drug product containing ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers if the person knows or reasonably should know that the purchaser will use the product to manufacture a controlled substance.

(c) It shall be unlawful for any person to market, sell, distribute, advertise or label any drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers or salts of isomers for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved pursuant to the pertinent federal over-the-counter drug final monograph or tentative final monograph or approved new drug application.

(d) For persons arrested and charged under this section, bail shall be at least \$50,000 cash or surety, unless the court determines on the record that the defendant is not likely to re-offend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

(e) A violation of this section shall be a drug severity level \pm 2 felony.”;

And by renumbering the remaining sections accordingly;

Also on page 10, in line 7, after “K.S.A.”, where it appears for the first time, by inserting “16-305, 19-3519.”; also in line 7, by striking “and 21-3213” and inserting “, 21-3720, 21-3729, 21-3734, 21-3902, 21-3904, 21-3905, 21-4111, 22-2501, 39-717, 40-247, 40-2,118, as amended by section 1 of 2006 House Substitute for Senate Bill No. 207, 44-5,125, and 65-4150”; in line 8, after “Supp.” by inserting “21-3437, 21-3763, 21-3846.”; also in line 8, by striking “and” and inserting a comma; also in line 8, after “22-3901” by inserting “, 32-1005, 40-5013, 47-1827 and 65-7006”;

On page 1, in the title, in line 16, by striking “relating to”; in line 17, by striking “concerning”; also in line 17, after “gangs;” by inserting “loss of value of the crime; controlled substances; warrantless searches;”; also in line 17, after “K.S.A.” by inserting “16-305, 19-3519.”; in line 18, by striking “and 21-3213” and inserting “, 21-3720, 21-3729, 21-3734, 21-3902, 21-3904, 21-3905, 21-4111, 39-717, 40-247, 40-2,118, as amended by section 1 of 2006 House Substitute for Senate Bill No. 207, 44-5,125, and 65-4150”; also in line 18, after “Supp.” by inserting “21-3437, 21-3763, 21-3846.”; also in line 18, by striking “and”, where it appears for the third time, and inserting a comma; also in line 18, after “22-3901” by inserting “, 32-1005, 40-5013, 47-1827 and 65-7006”; in line 19, preceding the period by inserting “; also repealing K.S.A. 22-2501”;

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

MICHAEL O'NEAL
LANCE KINZER
JANICE L. PAULS
Conferees on part of House

JOHN VRATIL
TERRY BRUCE
GRETA GOODWIN
Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 366**.

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, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schoendorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Francisco.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 506**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 1, preceding line 24, by inserting the following:

“WHEREAS, Subsection (a)(7) of K.S.A. 2005 Supp. 22-4902, and amendments thereto, shall be known and may be cited as Miki’s Law: Now, therefore,”;

On page 8, following line 19, by inserting the following:

“Sec. 5. On and after July 1, 2006, K.S.A. 2005 Supp. 8-247, as amended by section 4 of this act, is hereby amended to read as follows: 8-247. (a) (1) All original licenses shall expire as follows:

(A) Licenses issued to persons who are at least 21 years of age, but less than 65 years of age shall expire on the sixth anniversary of the date of birth of the licensee which is nearest the date of application;

(B) licenses issued to persons who ~~are less than 21 years of age or~~ are 65 years of age or older shall expire on the fourth anniversary of the date of birth of the licensee which is nearest the date of application;

(C) any commercial drivers license shall expire on the fourth anniversary of the date of birth of the licensee which is nearest the date of application; ~~or~~

(D) licenses issued to an offender, as defined in K.S.A. 22-4902, and amendments thereto, who is required to register pursuant to the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall expire every year on the date of birth of the licensee; *or*

(E) licenses issued to persons who are less than 21 years of age shall expire on the licensee’s twenty-first birthday.

(2) All renewals under: (A) paragraph (1) (A) shall expire on every sixth anniversary of the date of birth of the licensee; (B) paragraph (1) (B) and (C) shall expire on every fourth anniversary of the date of birth of the licensee; ~~and~~ (C) paragraph (1)(D) shall expire every year on the date of birth of the licensee; *and (D) paragraph (1) (E), if a renewal license is issued, shall expire on the licensee’s twenty-first birthday.* No driver’s license shall expire in the same calendar year in which the original license or renewal license is issued, except that if the foregoing provisions of this section shall require the issuance of a renewal license or an original license for a period of less than six calendar months, the license issued to the applicant shall expire in accordance with the provisions of this subsection.

(b) If the driver’s license of any person expires while such person is outside of the state of Kansas and on active duty in the armed forces of the United States, the license of such person shall be renewable, without examination, at any time prior to the end of the sixth month following the discharge of such person from the armed forces, or within 90 days after reestablished residence within the state, whichever time is sooner. If the driver’s license of any person expires while such person is outside the United States, the division shall provide for renewal by mail.

(c) At least 30 days prior to the expiration of a person’s license the division shall mail a notice of expiration or renewal application to such person at the address shown on the license. The division shall include with such notice: (1) A copy of the eyesight examination form; (2) a copy of the written examination prescribed by subsection (e); (3) a copy of the Kansas driver’s manual, prepared pursuant to K.S.A. 8-266b, and amendments thereto; and (4) the written information required under subsection (g).

(d) Every driver’s license shall be renewable on or before its expiration upon application and payment of the required fee and successful completion of the examinations required by subsection (e). Application for renewal of a valid driver’s license shall be made to the division in accordance with rules and regulations adopted by the secretary of revenue. Such application shall contain all the requirements of subsection (b) of K.S.A. 8-240, and amendments thereto. Upon satisfying the foregoing requirements of this subsection, and if the division makes the findings required by K.S.A. 8-235b, and amendments thereto, for the issuance of an original license, the license shall be renewed without examination of the applicant’s driving ability. If the division finds that any of the statements relating to revocation, suspension or refusal of licenses required under subsection (b) of K.S.A. 8-240, and amendments thereto, are in the affirmative, or if it finds that the license held by the applicant is not a valid one, or if the applicant has failed to make application for renewal of such person’s license on or before the expiration date thereof, the division may require the applicant to take an examination of ability to exercise ordinary and reasonable control in the operation of a motor vehicle as provided in K.S.A. 8-235d, and amendments thereto.

(e) (1) Prior to renewal of a driver's license, the applicant shall pass an examination of eyesight and a written examination of ability to read and understand highway signs regulating, warning and directing traffic and knowledge of the traffic laws of this state. Such examination shall be equivalent to the tests required for an original driver's license under K.S.A. 8-235d, and amendments thereto. A driver's license examiner shall administer the examinations without charge and shall report the results of the examinations on a form provided by the division, which shall be submitted by the applicant to the division at the time such applicant applies for license renewal.

(2) In lieu of the examination of the applicant's eyesight by the examiner, the applicant may submit a report on the examination of eyesight by a physician licensed to practice medicine and surgery or by a licensed optometrist. The report shall be based on an examination of the applicant's eyesight not more than three months prior to the date the report is submitted, and it shall be made on a form furnished the applicant with the notice of the expiration of license under subsection (c).

(3) In lieu of the driver's license examiner administering the written examination, the applicant may complete the examination furnished with the notice of the expiration of license under subsection (c) and submit the completed examination to the division.

(4) The division shall determine whether the results of the written examination and the eyesight reported are sufficient for renewal of the license and, if the results of either or both of the examinations are insufficient, the division shall notify the applicant of such fact and return the license fee. In determining the sufficiency of an applicant's eyesight, the division may request an advisory opinion of the medical advisory board, which is hereby authorized to render such opinions.

(5) An applicant who is denied a license under this subsection (e) may reapply for renewal of such person's driver's license, except that if such application is not made within 90 days of the date the division sent notice to the applicant that the license would not be renewed, the applicant shall proceed as if applying for an original driver's license. If the applicant has been denied renewal of such person's driver's license because such applicant failed to pass the written examination, the applicant shall pay an examination fee of \$1.50 to take the test again.

(6) When the division has good cause to believe that an applicant for renewal of a driver's license is incompetent or otherwise not qualified to operate a motor vehicle in accord with the public safety and welfare, the division may require such applicant to submit to such additional examinations as are necessary to determine that the applicant is qualified to receive the license applied for. Subject to paragraph (7) of this subsection, in so evaluating such qualifications, the division may request an advisory opinion of the medical advisory board which is hereby authorized to render such opinions in addition to its duties prescribed by subsection (b) of K.S.A. 8-255b, and amendments thereto. Any such applicant who is denied the renewal of such a driver's license because of a mental or physical disability shall be afforded a hearing in the manner prescribed by subsection (c) of K.S.A. 8-255, and amendments thereto.

(7) Seizure disorders which are controlled shall not be considered a disability. In cases where such seizure disorders are not controlled, the director or the medical advisory board may recommend that such person be issued a driver's license to drive class C or M vehicles and restricted to operating such vehicles as the division determines to be appropriate to assure the safe operation of a motor vehicle by the licensee. Restricted licenses issued pursuant to this paragraph shall be subject to suspension or revocation. For the purpose of this paragraph, seizure disorders which are controlled means that the licensee has not sustained a seizure involving a loss of consciousness in the waking state within six months preceding the application or renewal of a driver's license and whenever a person licensed to practice medicine and surgery makes a written report to the division stating that the licensee's seizures are controlled. The report shall be based on an examination of the applicant's medical condition not more than three months prior to the date the report is submitted. Such report shall be made on a form furnished to the applicant by the division. Any physician who makes such report shall not be liable for any damages which may be attributable to the issuance or renewal of a driver's license and subsequent operation of a motor vehicle by the licensee.

(f) If the driver's license of any person expires while such person is outside the state of Kansas, the license of such person shall be extended for a period not to exceed six months and shall be renewable, without a driving examination, at any time prior to the end of the sixth month following the original expiration date of such license or within 10 days after such person returns to the state, whichever time is sooner.

(g) The division shall provide the following information in a person's notice of expiration or renewal under subsection (c):

(1) Written information explaining the person's right to make an anatomical gift in accordance with K.S.A. 8-243, and amendments thereto, and the uniform anatomical gift act;

(2) written information describing the organ donation registry program maintained by the Kansas federally designated organ procurement organization. The written information required under this paragraph shall include, in a type, size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Kansas' federally designated organ procurement organization, along with an advisory to call such designated organ procurement organization with questions about the organ donor registry program;

(3) written information giving the applicant the opportunity to be placed on the organ donation registry described in paragraph (2);

(4) inform the applicant in writing that, if the applicant indicates under this subsection a willingness to have such applicant's name placed on the organ donor registry described in paragraph (2), the division will forward the applicant's name, gender, date of birth and most recent address to the organ donation registry maintained by the Kansas federally designated organ procurement organization, as required by paragraph (6);

(5) the division may fulfill the requirements of paragraph (4) by one or more of the following methods:

(A) Providing printed material enclosed with a mailed notice for driver's license renewal; or

(B) providing printed material to an applicant who personally appears at an examining station;

(6) if an applicant indicates a willingness under this subsection to have such applicant's name placed on the organ donor registry, the division shall within 10 days forward the applicant's name, gender, date of birth and most recent address to the organ donor registry maintained by the Kansas federally designated organ procurement organization. The division may forward information under this subsection by mail or by electronic means. The division shall not maintain a record of the name or address of an individual who indicates a willingness to have such person's name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have such applicant's name placed on the organ donor registry that is obtained by the division and forwarded under this paragraph shall be confidential and not disclosed.

(h) Notwithstanding any other provisions of law, any offender under subsection (a)(1)(D) who held a valid driver's license on the effective date of this act may continue to operate motor vehicles until the next anniversary of the date of birth of such offender. Upon such date such driver's license shall expire and the offender shall be subject to the provisions of this section.

Sec. 6. On and after July 1, 2006, K.S.A. 2005 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

(a) "Offender" means: (1) A sex offender as defined in subsection (b);

(2) a violent offender as defined in subsection (d);

(3) a sexually violent predator as defined in subsection (f);

(4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or

(C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) *any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;*

~~(7)~~ (8) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4) ~~or~~, (5) *or* (7), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) ~~or~~, (5) *or* (7); or

~~(8)~~ (9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4) ~~or~~, (5) *or* 7.

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;

(10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;

(11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or

(12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

- (1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;
- (2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto;

or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 *et seq.* and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.;

And by renumbering the remaining sections accordingly;

On page 15, in line 24, after the period by inserting "If the court requires the juvenile to register but such registration is not open to the public, the juvenile shall provide a copy of such court order to the sheriff at the time of registration. The sheriff shall forward a copy of such court order to the Kansas bureau of investigation.;"

On page 23, after line 10, by inserting the following:

"Sec. 16. On and after July 1, 2006, K.S.A. 2005 Supp. 8-247, as amended by section 4 of this act, 8-247, as amended by section 2 of 2006 Senate Bill No. 554, and 22-4902 are hereby repealed.;"

And by renumbering the remaining sections accordingly;

In the title, in line 21, after "8-247," by inserting "8-247, as amended by section 4 of this act, 22-4902.;" in line 22, before the period by inserting "; also repealing K.S.A. 2005 Supp. 8-247, as amended by section 2 of 2006 Senate Bill No. 554";

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

MICHAEL O'NEAL
LANCE KINZER
JANICE L. PAULS
Conferees on part of House

JOHN VRATIL
TERRY BRUCE
GRETA GOODWIN
Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 506**. Senator McGinn offered a substitute motion the senate not adopt the Conference Committee Report and a new conference committee be appointed. The motion carried and President Morris appointed Senators Vratil, Bruce and Goodwin as second conferees for the senate.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 528**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 2, in line 2, by striking all after "anomalies"; by striking all in lines 3 and 4;

On page 4, by striking all in lines 35 through 43;

On page 5, by striking all in lines 1 through 29;

And by renumbering sections accordingly;

In the title, in line 15, by striking all after the semicolon; in line 16, by striking all before "amending";

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

JIM MORRISON
PEGGY MAST
Conferees on part of House

JIM BARNETT
NICK JORDAN
Conferees on part of Senate

Senator Barnett moved the Senate adopt the Conference Committee Report on **SB 528**.

Senator Kelly offered a substitute motion the senate not adopt the Conference Committee Report and a new conference committee be appointed. The motion failed.

On roll call on **SB 528**, the vote was: Yeas 25, Nays 15, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Barone, Brownlee, Bruce, Donovan, Emler, Gilstrap, Huelskamp, Jordan, Journey, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schmidt D, Taddiken, Umbarger, Wagle, Wilson.

Nays: Allen, Betts, Brungardt, Francisco, Goodwin, Haley, Hensley, Kelly, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Vratil, Wysong.

The Conference Committee report was adopted.

ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2576**.

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

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Barone introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1857—

A RESOLUTION congratulating and commending the Pittsburg State University Department of Nursing.

WHEREAS, The Pittsburg State University (PSU) Department of Nursing received two national awards at the National Student Nurses Association Convention in Baltimore, Maryland, on April 6. The PSU chapter of Kansas Association of Nursing Students received the award for the most creative project for Breakthrough to Nursing and the award for the outstanding Community Health Project Focusing on Older Adults; and

WHEREAS, The Breakthrough to Nursing award was given for visits to grade schools promoting nursing as a profession, for development of a high school career day promoting nursing and for promoting nursing with coloring books for children. Over 30 nursing students were involved in this project; and

WHEREAS, The award for the Community Health Project Focusing on Older Adults was received for conducting a health fair that was provided for the older population in the Pittsburg area. Approximately 20 nursing students participated and over 300 older individuals and family members attended the health fair. The health fair provided information on cancer prevention, tobacco use prevention, fire prevention, traffic safety and stress reduction plus information on Medicare and Medicaid. Health screenings focused on checking blood pressure, glucose, melanoma, depression and memory; and

WHEREAS, Approximately 750 chapters and over 45,000 students are included in the National Student Nurses Association and were eligible to compete for these awards; and

WHEREAS, The Pittsburg State University Department of Nursing offers academic programs and opportunities for research, scholarship, service and leadership. In 2005, PSU baccalaureate graduates scored above state and national norms on the NCLEX-RN examination, and PSU master's program graduates achieved a 100 percent pass rate on national certification examinations: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Pittsburg State University Department of Nursing upon receiving national recognition for these outstanding outreach projects and for the excellence in the quality of its graduates; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Senator Barone for presentation to the Pittsburg State University Department of Nursing.

On emergency motion of Senator Barone **SR 1857** was adopted unanimously.

Senators Pyle and Hensley introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1858—

A RESOLUTION congratulating and commending Eric Sheets.

WHEREAS, Eric Sheets, a senior at Washburn University and a member of the Kickapoo Tribe of Kansas, has been selected as one of 12 individuals to be awarded a Morris K. Udall Native American Congressional Internship this summer. The awards are given to Native Americans or Native Alaskans who have demonstrated an interest in fields related to tribal public policy, tribal law, Native American education, health, justice, natural resource protection or economic development. He is the first member of his tribe as well as the first student attending a Kansas college to receive this honor. He is working on a bachelor's degree in anthropology; and

WHEREAS, The internship will consist of spending 10 busy weeks in Washington, D.C. working in congressional offices or federal agencies to observe and learn something about the federal legislative process. Special activities will be scheduled to give the interns a chance to meet distinguished members of congress, supreme court justices, and directors and staff of federal agencies. Additionally, there will be specially arranged tours of federal buildings and museums. The interns receive airfare to and from the capitol, an allowance for expenses and living community-style close to the capitol hill with an on-site coordinator. They will also receive a \$1,200 stipend upon completion of the internship; and

WHEREAS, The internship program is sponsored and financed by the Morris K. Udall Foundation, which was authorized by congress in 1992 to honor Congressman Udall's legacy

of public service and is presently chaired by Terrence L. Bracy. One hundred twenty-six Native American and Native Alaskan students from 87 tribes have participated in the program to date; and

WHEREAS, Mr. Sheets' award is shared with his spouse Summer Sheets, his children Tyson and Bell Sheets, his parents Donald Sheets and Gail DuPuis, his sisters Crystal Sheets and Hannah Miller and his grandparents Francis and Mabel DuPuis and Kickapoo tribal chairman Russell Bradley: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Eric Sheets upon being the first of his tribe and the first Kansas college student to be awarded a Morris K. Udall Native American Congressional Internship and hope that the experience is both rewarding and helpful in his future career.

Be it further resolved: That the Secretary of the Senate provide five enrolled copies of this resolution each to Senators Pyle and Hensley.

On emergency motion of Senator Pyle **SR 1858** was adopted unanimously.

Senator Morris and members of the Senate congratulated Eric on his award. Guests present and acknowledged for the reading of the resolution were Summer Sheets, Eric's wife, his mother Gail DuPuis, his grandmother, Mabel DuPuis, his sister, Crystal Sheets, Russell Bradley, Rozella Pamerz, Debbie Whitebird, Shannon Stone, John Thomas, Ruth King and Vince and Dana Frey.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **SB 488** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 488," as follows:

"Substitute for SENATE BILL No. 488
By Committee on Assessment and Taxation

"AN ACT concerning property taxation; relating to exemptions; credits; property tax reduction, sales tax authority of counties; certain payments to counties; amending K.S.A. 79-210 and K.S.A. 2005 Supp. 79-201w, 79-213 and 79-2959, as amended by section 160 of 2006 Senate Bill No. 480, and repealing the existing sections."; and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Thursday, May 4, 2006.

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

PAT SAVILLE, *Secretary of the Senate.*

