

# Journal of the Senate

## SIXTIETH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Friday, May 2, 2008—9:30 a.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with thirty-nine senators present.  
Senator Palmer was excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Today we welcome K.U. teams:  
Football, Basketball and Debate.  
If we had one word to call them,  
There's no better word than "great".

Coach Mangino and his staff  
Coached the K.U. football team  
To an eleven and one season,  
And in the Orange Bowl reigned supreme.

Coach Self and his assistants  
At an unbelievable clip  
Rode a thirty-seven and three season  
To an NCAA championship.

Coach Harris and his debate team  
Also deserve our cheers,  
Winning the national championship  
Two out of the last three years!

Our football team surprised the nation  
And made us yell and squeal.  
The only ones who were not surprised  
Were the guys out on the field.

Our basketball team went all the way  
Their opponents were "weeping willows".  
It was especially sweet to beat N.C.,  
And Memphis in a thriller.

The debate team was number one  
Over Emory number two.  
Harvard was in third place,  
It took brains to beat them, too.

I know, O God, You're not surprised  
At anything happening here.  
You knew who was going to win,  
And who will win next year.

But I also know You love us all,  
And want us to love You;  
I also know that teamwork  
Is something You love, too.

Every member of a team  
Has a part to play  
If the team expects to win  
On any given day.

My prayer is that the team members  
Will recognize the source  
Of all the talents that they have...  
That they came from You, of course.

I also pray that after college  
When a new road they will trod;  
Their coaches will have modeled  
An abiding faith in You, O God.

I pray this in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

#### **INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senators Francisco, Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, 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. 1862—

A RESOLUTION congratulating and commending the 2007-2008 University of Kansas men's basketball and football teams and the debate teams.

WHEREAS, The University of Kansas has seen its students achieve tremendous success in recent academic and athletic competitions; and

WHEREAS, The KU men's basketball team won the 2008 NCAA Basketball Championship, capping off a 37-3 season with a thrilling 75-68 victory over Memphis, marking the fifth time the Jayhawks have won a national basketball title; and

WHEREAS, Mario Chalmers was named Most Outstanding Player of the Final Four and was named to the NCAA Final Four All-Tournament Team, along with Brandon Rush and Darrell Arthur; and

WHEREAS, The KU football team won the 2008 Orange Bowl, defeating Virginia Tech 24-21, making KU the first school from Kansas to win a Bowl Championship Series game, and resulting in a 12-1 record, the best in school history; and

WHEREAS, Aqib Talib was named the Orange Bowl's Most Valuable Player and Coach Mark Mangino was honored with numerous coach of the year awards, including one from the American Football Coaches Association; and

WHEREAS, The KU debate team finished the season ranked No. 1 in the National Debate Tournament varsity rankings, the second time in three years the team has finished the season at the top of the standings; and

WHEREAS, Sixteen KU debaters competed in 22 tournaments this year, winning or placing second in 10 of them, including the Cross Examination Debate Association national tournament and tournaments hosted by Harvard and Dartmouth; and

WHEREAS, The students who were a part of these three teams serve as positive role models for young Kansans through their dedication to excellence and their proud representation of their school and their state in the arena of competition; and

WHEREAS, The head coaches of these teams, Bill Self, Mark Mangino and Scott Harris, continue to guide their teams with class, demonstrating all that is best about collegiate competitions: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the members of the University of Kansas men's basketball and football teams and the debate teams on their success and wish them the best of luck in future competitions and in their lives; and

*Be it further resolved:* That the Secretary of the Senate provide five enrolled copies of this resolution to Senator Marci Francisco for presentation to the University of Kansas.

On emergency motion of Senator Francisco **SR 1862** was adopted unanimously.

KU champions recognized included:

Orange Bowl Champions — Coach Clint Bowen, Kerry Meier, Dexton Fields, Marcus Herford and Todd Reesing; NCAA Basketball Champions — Coach Brett Ballard, Russell Robinson, Rodrick Stewart, Jeremy Case, Sasha Kaun, Darnell Jackson; National Debate Champions — Coach Scott Harris, Mark Wilkins, Kyle Shermuk, Erum Shah, Nate Johnson, Chris Thomas, Ronnie Press, Dylan Quigley and Chris Stone. Also recognized were Chancellor Robert Hemenway, Athletics Director Lew Perkins, Sr. Associate Athletics Director Larry Keating, Assistant Athletics Director Chris Theisen, Assistant debate coaches: Phil Samuels, Sarah Topp, Mick Souders, Lindsey Shook and Baby Jay. Senators rose for a standing ovation in honor of the outstanding achievements of all of the team members and their coaches.

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

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#### AFTERNOON-SESSION

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

#### ORIGINAL MOTION

Pursuant to Senate Rule 75, President Morris determined **H Sub for SB 658**, as amended by the House, to be materially changed.

President Morris re-referred the bill to the Committee on **Ways and Means**.

#### MESSAGE FROM THE HOUSE

Announcing the House nonconcurs in Senate amendments to **Senate Substitute for HB 2936**, requests a conference and appoints Representatives Schwartz, Tafanelli and Feuerborn as conferees on the part of the House.

The House nonconcurs in Senate amendments to **Senate Substitute for HB 2946**, requests a conference and appoints Representatives Schwartz, Tafanelli and Feuerborn as conferees on the part of the House.

The House nonconcurs in Senate amendments to **Senate Substitute for HB 2947**, requests a conference and appoints Representatives Burgess, Powers and Sawyer as conferees on the part of the House.

The House adopts the conference committee report on **House Substitute for SB 273**.

The House adopts the conference committee report on **SB 435**.

The House adopts the conference committee report on **SB 531**.

#### ORIGINAL MOTION

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **S Sub for HB 2936**.

The President appointed Senators Umbarger, Emler and Kelly as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **S Sub for HB 2946**.

The President appointed Senators Umbarger, Emler and Kelly as conferees on the part of the Senate.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senators Morris, Donovan, Allen, Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, Lynn, McGinn, 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. 1863—

A RESOLUTION commending Brigadier General Jonathan P. Small for his tireless service to Kansas soldiers.

WHEREAS, In 1999, Jonathan P. Small was appointed to the position of Brigadier General. He also assumed the position of Assistant Adjutant General for the Kansas Army National Guard, and served as the Commander of the Land Component for the Joint Forces Headquarters in Kansas; and

WHEREAS, While serving in these capacities, Brigadier General Small was instrumental in transforming the State Area Command into a Joint Forces Headquarters, and was the driving force behind the successful ratification of the Kansas Soldiers and Airmen Bill of Rights. In addition to these accomplishments for the benefit of Kansas soldiers, Brigadier General Small's coordination between multiple levels of military and state agencies lead to Kansas receiving millions of dollars from the federal and state government for facility renovations; and

WHEREAS, Brigadier General Small has dedicated most of his life to military service. In addition to degrees from Kansas State University and Washburn University School of Law, he was educated at the Field Artillery School Advance Course, Command and General Staff College, the Judge Advocate General School and the U.S. Army War College; and

WHEREAS, Brigadier General Small's military service is not limited to his education. He has also served as a soldier in the U.S. Army Reserve Control Group and an officer in the Kansas Army National Guard. Brigadier General Small was the staff judge advocate for the State Area Command (STARC) Headquarters for the Kansas Army National Guard until he became the deputy commander of STARC in 1998. He was appointed by the governor to be the Kansas Judge Advocate General from 1984 to 1999; and

WHEREAS, A much decorated soldier, Brigadier General Small's military awards include the Meritorious Service Medal, Army Commendation Medal, Army Reserve Components Achievement Medal, National Defense Service Medal, Armed Forces Reserve Medal and the Army Service Ribbon; and

WHEREAS, Brigadier General Small has owned a private law practice in Topeka for over 25 years. He was Assistant Kansas Attorney General from 1973 to 1978 and Deputy Kansas Attorney General from 1978 to 1979. Brigadier General Small is a member of the American Legion, National Guard Association of Kansas and the United States and the Association of the United States Army. He and his wife Georgia Ann reside in Topeka. Their son Aaron and his wife Cathy reside in Kansas City, and their daughter Jennifer, her husband Seth and granddaughter Maia live in Columbia, Missouri. Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we do heartily commend Brigadier General Small for his dedicated and tireless service to improve the quality of life for Kansas soldiers; and

*Be it further resolved:* That the Secretary of the Senate be directed to provide three enrolled copies of this resolution to Senator Morris.

On emergency motion of Senator V. Schmidt **SR 1863** was adopted unanimously.

Brig. Gen. Small, his wife, Georgia Small, and family members Arron Small (son), wife, Cathy Small, Jennie Trotter (daughter), Seth Trotter, and Maia Trotter were introduced and received a standing ovation by members of the Senate. Brig. Gen. Small was presented with a framed copy of **SR 1863** by Senator V. Schmidt. Also present and introduced were Maj. Gen. Tod Bunting, Col. Joe Wheeler and Command Sargent Major Steve Rodina.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

## SENATE RESOLUTION No. 1864—

A RESOLUTION congratulating Trevor Keith Elwell Eggenberger on winning the Kansas State Geography Bee and wishing him continued success as he represents Kansas at the National Bee in Washington D.C.

WHEREAS, On April 3, 2008, Trevor Keith Elwell Eggenberger, an 11-year-old fifth grader who attends Central Christian Academy in Wichita, Kansas, won the Kansas State Geography Bee sponsored by National Geographic; and

WHEREAS, The National Geographic Bee, an educational program of the National Geographic Society, is a nationwide geography competition open to students in the fourth through eighth grade in participating American schools, and is designed to encourage the teaching and study of geography; and

WHEREAS, The state bees are the second level of the annual National Geographic Bee. The first level of competition began at participating schools last November, with contests in almost 14,000 schools in which more than 5 million students participated; and

WHEREAS, As winner of the state bee, Trevor has been invited to the National Geographic headquarters where he will represent Kansas in the National Bee in Washington D.C. on May 19th thru 21st. The entities represented at the national level are all 50 states, Puerto Rico, the U.S. Virgin Islands, U.S. territories in the Pacific (Northern Mariana Islands, Guam, and American Samoa), the District of Columbia, and the Department of Defense Dependents Schools. Participants in the national bee will compete for scholarships in the amount of \$10,000, \$15,000 and \$25,000: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate Trevor on winning the Kansas State Geographic Bee and that we wish him continued success as he represents Kansas at the National Bee in Washington D.C.; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Senator Petersen.

On emergency motion of Senator Petersen **SR 1864** was adopted unanimously.

Senator Petersen introduced Trevor Eggenberger, his parents Sharon and Brian Eggenberger and brother Justin. All were honored with a standing ovation by the Senators.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

## SENATE RESOLUTION No. 1865—

A RESOLUTION congratulating and commending the Johnson County Nursing Center for being awarded the first annual Ombudsman Excellence Award by the Kansas Long-term Care Ombudsman Program.

WHEREAS, In her State of the State address, Governor Kathleen Sebelius called for innovative ways to make health care affordable and effective for Kansas seniors; and

WHEREAS, Kansas has many nursing facilities that are leading the way in promoting resident- centered care; and

WHEREAS, Nearly 14 percent of Kansas residents are 65 years of age and older; and

WHEREAS, “Culture Change” is the need to change the philosophy of long-term care and its delivery to our elders. Such change transforms the philosophy and practice at every level of operation of long-term care facilities by developing new ways of working that foster an environment in which staff are inspired to support residents’ quality of life and self-determination; an environment that fosters respect for residents’ dignity, personhood and autonomy; and

WHEREAS, The Johnson County Nursing Center is meeting the challenge to effect this change by working to return control to long-term care facility residents. Residents are given ample choices with respect to meals, waking and bed times and activities. Residents also have more choices when making their rooms more homey; and

WHEREAS, At the Johnson County Nursing Center, innovations such as unique staffing schedules and assignments help to empower those who work with residents to provide consistent care to residents; and

WHEREAS, The Johnson County Nursing Center has developed the Geriatric Education Resource and Training Institute. This training program trains direct care staff to be responsible and accountable. The program has been so successful that the Center now offers the training in numerous locations across Kansas: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Johnson County Nursing Center for receiving the Ombudsman Excellence Award; and for being a leader among the new age of long-term care providers by meeting challenges and promoting opportunities and solutions to provide Kansas seniors with quality long-term care while respecting their dignity, personhood and autonomy; and

*Be it further resolved:* That the Secretary of the Senate provide 3 enrolled copies of this resolution to Senator Julia Lynn.

On emergency motion of Senator Lynn **SR 1865** was adopted unanimously.

Members of the executive staff of the Johnson County Nursing Center: Gilbert Cruz, Joe Dobson, Kay Langlais, and other staff members were recognized and honored with a standing ovation by the Senators.

#### REPORT ON ENGROSSED BILLS

**H Sub for Sub SB 391; SB 669** reported correctly engrossed May 1, 2008.

Also, **SB 570** correctly re-engrossed May 1, 2008.

**H Sub for SB 32, H Sub for SB 113, H Sub for SB 114; SB 178; H Sub for SB 379** reported correctly engrossed May 2, 2008.

Also, **Sub SB 485** correctly re-engrossed May 2, 2008.

On motion of Senator D. Schmidt, the Senate recessed until 4:00 p.m.

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

#### ORIGINAL MOTION

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **S Sub for HB 2947**.

The President appointed Senators Brungardt, Reitz and Gilstrap as conferees on the part of the Senate.

#### 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 273; SB 435, SB 531; HB 2359**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 273**, 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. 273, As Amended by House Committee of the Whole, as follows:

On page 2, by striking all in lines 6 through 8 and inserting the following:

“(c) (1) An insurer shall have the option of receiving request for information about an identified claimant from either the secretary of social and rehabilitation services or from the entity responsible for the data matching pursuant to section 1, and amendments thereto.

(2) An insurer shall respond by disclosing the requested information about the claimant only if the amount of the claim totals \$1,000 or more.”;

Also on page 2, in line 21, by striking “this section” and inserting “sections 1 or 2, and amendments thereto.”; in line 22, following the period by inserting “An insurer shall not be assessed any fee by the secretary of social and rehabilitation services or by any entity that has entered into an agreement pursuant to section 1, and amendments thereto.”;

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

CLARK SHULTZ  
ANTHONY BROWN  
NILE DILLMORE  
*Conferees on part of House*

RUTH TEICHMAN  
DAVID WYSONG  
CHRIS STEINEGER  
*Conferees on part of Senate*

Senator Teichman moved the Senate adopt the Conference Committee Report on **H Sub for SB 273**.

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

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

Absent or Not Voting: Palmer.

The Conference Committee report was adopted.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 435**, 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 amendments, as follows:

On page 25, in line 21, preceding "acknowledged" by inserting "in writing and shall be"; in line 22, by striking ". It" and inserting "or before an officer authorized by law to take acknowledgments. If the consent is acknowledged before a judge of a court of record, it";

On page 26, in line 15, by striking "and"; in line 19, by striking the period and inserting "; and"; preceding line 20, by inserting the following:

"(9) whether the child has been in extended out of home placement as a result of actions or inactions attributable to the parent and one or more of the factors listed in subsection (c) apply.";

On page 27, by striking all in lines 37 through 43;

By striking all on pages 28 and 29;

On page 30, by striking all in lines 1 through 20;

And by renumbering the remaining sections accordingly;

On page 34, after line 13, by inserting the following:

"Sec. 22. K.S.A. 2007 Supp. 74-9101, as amended by section 1 of 2008 Senate Bill No. 418, is hereby amended to read as follows: 74-9101. (a) There is hereby established the Kansas sentencing commission.

(b) The commission shall:

(1) Develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the circumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the Kansas parole board and whether the policy of allocating good time

credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued;

(2) consult with and advise the legislature with reference to the implementation, management, monitoring, maintenance and operations of the sentencing guidelines system;

(3) direct implementation of the sentencing guidelines system;

(4) assist in the process of training judges, county and district attorneys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. For these purposes, the sentencing commission shall develop an implementation policy and shall construct an implementation manual for use in its training activities;

(5) receive presentence reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993, to develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences. In developing the evaluative criteria, the commission shall take into consideration rational and consistent sentencing standards which reduce sentence disparity to include, but not be limited to, racial and regional biases;

(6) advise and consult with the secretary of corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies, including but not limited to the capacities of local and state correctional facilities. Such linkage shall include a review and determination of the impact of the sentencing guidelines on the state's prison population, review of corrections programs and a study of ways to more effectively utilize correction dollars and to reduce prison population;

(7) make recommendations relating to modification to the sentencing guidelines as provided in K.S.A. 21-4725, and amendments thereto;

(8) prepare and submit fiscal impact and correctional resource statement as provided in K.S.A. 74-9106, and amendments thereto;

(9) make recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;

(10) develop prosecuting standards and guidelines to govern the conduct of prosecutors when charging persons with crimes and when engaging in plea bargaining;

(11) analyze problems in criminal justice, identify alternative solutions and make recommendations for improvements in criminal law, prosecution, community and correctional placement, programs, release procedures and related matters including study and recommendations concerning the statutory definition of crimes and criminal penalties and review of proposed criminal law changes;

(12) perform such other criminal justice studies or tasks as may be assigned by the governor or specifically requested by the legislature, department of corrections, the chief justice or the attorney general;

(13) develop a program plan which includes involvement of business and industry in the public or other social or fraternal organizations for admitting back into the mainstream those offenders who demonstrate both the desire and ability to reconstruct their lives during their incarceration or during conditional release;

(14) appoint a task force to make recommendations concerning the consolidation of probation, parole and community corrections services;

(15) produce official inmate population projections annually on or before six weeks following the date of receipt of the data from the department of corrections. When the commission's projections indicate that the inmate population will exceed available prison capacity within two years of the date of the projection, the commission shall identify and analyze the impact of specific options for (A) reducing the number of prison admissions; or (B) adjusting sentence lengths for specific groups of offenders. Options for reducing the number of prison admissions shall include, but not be limited to, possible modification of both sentencing grids to include presumptive intermediate dispositions for certain categories of offenders. Intermediate sanction dispositions shall include, but not be limited to: intensive supervision; short-term jail sentences; halfway houses; community-based work release; electronic monitoring and house arrest; substance abuse treatment; and pre-revocation incarceration. Intermediate sanction options shall include, but not be limited to, mechanisms to explicitly target offenders that would otherwise be placed in prison. Analysis of each



option shall include an assessment of such options impact on the overall size of the prison population, the effect on public safety and costs. In preparing the assessment, the commission shall review the experience of other states and shall review available research regarding the effectiveness of such option. The commission's findings relative to each sentencing policy option shall be presented to the governor and the joint committee on corrections and juvenile justice oversight no later than November 1;

(16) at the request of the governor or the joint committee on corrections and juvenile justice oversight, initiate and complete an analysis of other sentencing policy adjustments not otherwise evaluated by the commission;

(17) develop information relating to the number of offenders on postrelease supervision and subject to electronic monitoring for the duration of the person's natural life;

(18) determine the effect the mandatory sentencing established in K.S.A. 21-4642 and 21-4643, and amendments thereto, would have on the number of offenders civilly committed to a treatment facility as a sexually violent predator as provided pursuant to K.S.A. 59-29a01 et seq., and amendments thereto;

(19) assume the designation and functions of the state statistical analysis center. All criminal justice agencies, as defined in subsection (c) of K.S.A. 22-4701, and amendments thereto, and the juvenile justice authority shall provide any data or information, including juvenile offender information, requested by the commission to facilitate the function of the state statistical analysis center; and

(20) *subject to the provisions of appropriation acts and the availability of funds therefor*, produce official juvenile correctional facility population projections annually on or before November 1, not more than six weeks following the receipt of the data from the juvenile justice authority and develop bed impacts regarding legislation that may affect juvenile correctional facility population.”;

Also on page 34, in line 17, by striking “38-2302, 38-2304 and 38-2317” and inserting “38-2304, 38-2317 and 74-9101, as amended by section 1 of 2008 Senate Bill No. 418.”;

In the title, in line 13, following the semicolon, by inserting “providing for juvenile correctional facility population projections.”; in line 16, by striking all following “38-2269”; in line 17, by striking “2302, 38-2304 and 38-2317” and inserting “, 38-2304, 38-2317 and 74-9101, as amended by section 1 of 2008 Senate Bill No. 418.”;

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 435**.

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

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

Absent or Not Voting: Palmer.

The Conference Committee report was adopted.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 531**, 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 23 through 43;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 26; following line 26 by inserting:

“Section 1. K.S.A. 72-1046b is hereby amended to read as follows: 72-1046b. (a) As used in this section:

(1) “School district” means a school district organized and operating under the laws of this state and no part of which is located in Johnson county, Sedgwick county, Shawnee county, or Wyandotte county.

(2) “Receiving school district” means a school district of nonresidence of a pupil.

(3) “Sending school district” means a school district of residence of a pupil.

(4) “Pupil” means a person who is enrolled and in attendance at school in a receiving school district and who (A) lives 10 or more miles from the attendance center the pupil would attend in a sending school district ~~and nearer to an appropriate attendance center in a receiving school district~~ or (B) is a member of the family of a pupil meeting the condition prescribed in subpart (A).

(5) “Member of the family” means a brother or sister of the whole or half blood or by adoption, a stepbrother or ~~sister~~ *stepsister*, and a foster brother or *foster* sister.

(b) The parent or legal guardian of any pupil may apply to the board of education of a sending school district on or before July 15 of the current school year for authority for such pupil to be furnished or provided transportation to school from the pupil’s residence and from school to the pupil’s residence by the receiving school district. The application shall be made upon forms prescribed by the state board of education.

(c) Upon receiving any application under this section, the board of education of a sending school district shall inquire of the receiving school district whether it is willing to furnish or provide transportation for the pupil named in the application. If the board of education of the sending school district determines that the receiving school district is willing to furnish or provide transportation for the pupil and the board of education of the sending school district and the board of education of the receiving school district agree that the pupil is a pupil as defined in subsection (a)(4)(A) or (B), the board of the sending school district shall issue an order authorizing the furnishing or provision of transportation by the receiving school district for the affected pupil to school from the pupil’s residence and to the pupil’s residence from school.

(d) Pupils attending school in a receiving school district under the provisions of this section shall be counted as regularly enrolled in and attending school in the receiving school district for the purpose of computations, except computation of transportation weighting, under the school district finance and quality performance act and for the purposes of the statutory provisions contained in article 83 of chapter 72 of Kansas Statutes Annotated. No such pupil shall be charged for the costs of attendance at school in a receiving school district.

Sec. 2. K.S.A. 2007 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) (1) “Pupil” means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the pupil’s attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as  $\frac{1}{2}$  pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil’s postsecondary education enrollment and attendance together with the pupil’s attendance in either of the grades 11 or 12 is at least  $\frac{3}{6}$  time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the total time of the pupil’s postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as

one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least  $\frac{5}{6}$  time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. *A pupil enrolled in a district and attending a non-virtual school and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the pupil's attendance at the non-virtual school bears to full-time attendance. Except as provided by this section for preschool-aged exceptional children and virtual school pupils,* a pupil enrolled in a district and attending special education and related services, ~~except special education and related services for preschool-aged exceptional children;~~ provided for by the district shall be counted as one pupil. *A pupil enrolled in a district and attending special education and related services provided for by the district and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the pupil's attendance at the non-virtual school bears to full-time attendance.* A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as pupil. A pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution *or a psychiatric residential treatment facility* shall not be counted. ~~A pupil enrolled in a virtual school in a district but who is not a resident of the state of Kansas shall not be counted.~~

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs.

(e) "Enrollment" means: (1) (A) Subject to the provisions of paragraph (1)(B), for districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this paragraph (1), the number of pupils regularly enrolled in the district on September 20; (B) a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the district for at least one semester or two quarters or the equivalent thereof;

(2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school

year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or

(3) the number of pupils as determined under K.S.A. 72-6447 or K.S.A. 2007 Supp. 72-6448, and amendments thereto.

(f) "Adjusted enrollment" means: (1) Enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, *high density at-risk pupil weighting*, if any, *medium density at-risk pupil weighting*, if any, nonproficient pupil weighting, if any, high enrollment weighting, if any, declining enrollment weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, cost of living weighting, if any, special education and related services weighting, and transportation weighting to enrollment; or (2) *adjusted enrollment as determined under section 6 or 7 of 2008 Senate Bill No. 669, and amendments thereto.*

(g) "At-risk pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) "Program weighting" means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

(i) "Low enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having to which high enrollment weighting is assigned pursuant to K.S.A. 2007 Supp. 72-6442b, and amendments thereto.

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities.

(k) "Transportation weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

(l) "Cost of living weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2007 Supp. 72-6449, and amendments thereto, apply on the basis of costs attributable to the cost of living in the district.

(m) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

(n) "Juvenile detention facility" has the meaning ascribed thereto by 72-8187, and amendments thereto.

(o) "Special education and related services weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.

~~(p) "Virtual school" means any kindergarten or grades one through 12 course offered for credit that uses distance-learning technologies which predominantly use internet-based methods to deliver instruction and for which the course content is available on an "anytime, anyplace" basis, but the instruction occurs asynchronously with the teacher and pupil in separate locations, not necessarily located within a local education agency.~~

(p) "Virtual school" means any school or educational program that: (1) Is offered for credit; (2) uses distance-learning technologies which predominately use internet-based methods to deliver instruction; (3) involves instruction that occurs asynchronously with the teacher and pupil in separate locations; (4) requires the pupil to make academic progress toward the next grade level and matriculation from kindergarten through high school graduation; (5) requires the pupil to demonstrate competence in subject matter for each class or subject in which the pupil is enrolled

as part of the virtual school; and (6) requires age-appropriate pupils to complete state assessment tests.

(q) "Declining enrollment weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2007 Supp. 72-6451, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.

(r) "High enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 2007 Supp. 72-6442b, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto.

(s) "High density at-risk pupil weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2007 Supp. 72-6455, and amendments thereto, apply.

(t) "Nonproficient pupil" means a pupil who is not eligible for free meals under the national school lunch act and who has scored less than proficient on the mathematics or reading state assessment during the preceding school year and who is enrolled in a district which maintains an approved proficiency assistance plan.

(u) "Nonproficient pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of nonproficient pupils pursuant to K.S.A. 2007 Supp. 72-6454, and amendments thereto.

(v) "Psychiatric residential treatment facility" has the meaning ascribed thereto by K.S.A. 72-8187, and amendments thereto.

(w) "Medium density at-risk pupil weighting" means an addend component assigned to enrollment of districts to which the provisions of section 4, and amendments thereto, apply.

Sec. 3. K.S.A. 2007 Supp. 72-6455 is hereby amended to read as follows: 72-6455. ~~The~~ high density at-risk pupil weighting of each school district shall be determined by the state board as follows:

— (a) Except as provided by subsection (d), if the district has an enrollment of less than 40% at-risk pupils, the state board shall multiply the number of at-risk pupils by 0. The product is the high density at-risk pupil weighting of the district.

— (b) Except as provided by subsection (d), if the district has an enrollment of at least 40% but less than 50% at-risk pupils, the state board shall multiply the number of at-risk pupils by .04 in school year 2006-2007, by .05 in school year 2007-2008 and by .06 in school year 2008-2009 and each school year thereafter. The product is the high density at-risk pupil weighting of the district.

— (c) If the district has an enrollment of 50% or more at-risk pupils, the state board shall multiply the number of at-risk pupils by .08 in school year 2006-2007, by .09 in school year 2007-2008 and by .10 in school year 2008-2009 and each school year thereafter. The product is the high density at-risk pupil weighting of the district.

— (d) If the district has an enrollment of at least 35.1% at-risk pupils and an enrollment density of at least 212.1 pupils per square mile, the state board shall multiply the number of at-risk pupils by .08 in school year 2006-2007, by .09 in school year 2007-2008 and by .10 in school year 2008-2009 and each school year thereafter. The product is the high density at-risk pupil weighting of the district: (a) As used in this section, school district means any district having: (1) An enrollment of at least 50% at-risk pupils; or (2) an enrollment of at least 35.1% at-risk pupils and an enrollment density of at least 212.1 pupils per square mile.

(b) The high density at-risk pupil weighting of each school district shall be determined by the state board by multiplying the number of at-risk pupils by .10. The product is the high density at-risk pupil weighting of the district.

(c) If a school district becomes ineligible for high density at-risk pupil weighting because enrollment of at-risk pupils in the district falls below the requirements of subsection (a), the high density at-risk pupil weighting of the district shall be the greater of: (1) The high density at-risk pupil weighting in the current school year; (2) the high density at-risk pupil weighting in the prior school year; or (3) the average of the high density at-risk pupil weighting in the current school year and the preceding two school years.

The provisions of this subsection shall expire on June 30, 2011.

New Sec. 4. (a) As used in this section, "school district" means any district having an enrollment of at least 40% but less than 50% at-risk pupils.

(b) The medium density at-risk pupil weighting of each school district shall be determined by the state board by multiplying the number of at-risk pupils by .06. The product is the medium density at-risk pupil weighting of the district.

(c) If a school district becomes ineligible for medium density at-risk pupil weighting because enrollment of at-risk pupils in the district falls below the requirement of subsection (a), the medium density at-risk pupil weighting of the district shall be the greater of: (1) The medium density at-risk pupil weighting in the current school year; (2) the medium density at-risk pupil weighting in the prior school year; or (3) the average of the medium density at-risk pupil weighting in the current school year and the preceding two school years.

The provisions of this subsection shall expire on June 30, 2011.

New Sec. 5. (a) There is hereby established the special education funding task force. The task force shall be composed of 12 members, as follows:

- (1) One member appointed by the speaker of the house of representatives;
  - (2) one member appointed by the president of the senate;
  - (3) one member appointed by the minority leader of the house of representatives;
  - (4) one member appointed by the minority leader of the senate;
  - (5) three members appointed by the board of directors of the Kansas association of school boards. Of such members, one member shall be from school districts having an enrollment of at least 12,000 pupils; one shall be from school districts having an enrollment of less than 12,000 but more than 1,636 pupils; and one shall be from school districts having an enrollment of 1,636 pupils or less.
  - (6) three members appointed by the board of directors of the united school administrators. Of such members, one member shall be from school districts having an enrollment of at least 12,000 pupils; one shall be from school districts having an enrollment of less than 12,000 but more than 1,636 pupils; and one shall be from school districts having an enrollment of 1,636 pupils or less. Members appointed pursuant to this paragraph shall include a person who is a chief financial officer of a school district and a person who is a director of special education services;
  - (7) one member appointed by the board of directors of the Kansas national education association; and
  - (8) the commissioner of education, or the designee thereof. The commissioner of education shall serve ex officio and shall be a nonvoting member of the task force.
- (b) Members shall be appointed to the task force on or before July 1, 2008. The first meeting of the task force shall be called by the commissioner of education on or before August 1, 2008. Any vacancy in the membership of the task force shall be filled by appointment in the same manner prescribed by this section for the original appointment.
- (c) (1) If approved by the legislative coordinating council, members of the task force attending regular or special meetings or subcommittee meetings authorized by the task force, shall be paid amounts for expenses, mileage and subsistence as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.
- (2) The members of the task force shall select a chairperson and vice-chairperson from the membership of the task force.
- (3) The task force may meet at any time and at any place within the state on the call of the chairperson. A quorum of the task force shall be six voting members. All actions of the task force shall be by motion adopted by a majority of those voting members present when there is a quorum.
- (4) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the task force.
- (5) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the task force. Upon request of the task force, the state board of education shall provide consultants and assistance when requested by the task force. In addition and upon the request of the task force, the state board of education and school districts shall provide any information and supporting documentation requested by the task force.

(d) The special education funding task force shall:

(1) Study and make recommendations for changes in the existing formula for funding of special education and related services including, but not limited to, medicaid replacement state aid;

(2) conduct hearings and receive and consider suggestions from teachers, parents, the department of education, the state board of education, other governmental officers and agencies and the general public concerning funding for special education and related services; and

(3) make and submit reports to the legislature on the work of the task force concerning recommendations of the task force. Such reports also shall include recommendations for legislative changes and shall be submitted to the legislature on or before January 14th of each year.

(e) The task force shall cease to exist on June 30, 2011.”;

And by renumbering the remaining sections accordingly;

On page 4, in line 13, after “day” by inserting “, for a period of time not to exceed one hour at the start of the school day or at the end of the school day,”; following line 18, by inserting:

“The provisions of this subsection shall expire on June 30, 2011.”;

On page 5, by striking all in lines 40 through 43;

On page 6, by striking all in lines 1 through 27; following line 27 by inserting:

“New Sec. 8. (a) As used in this section:

(1) “Medicaid children” means exceptional children who receive special education and related services and for which the district receives medicaid payments.

(2) Words and phrases used in this section, have the meanings ascribed thereto in K.S.A. 72-962, and amendments thereto.

(b) The provisions of this section shall be applicable for school years 2007-2008, 2008-2009 and 2009-2010. The state board shall designate a portion of the amount of moneys appropriated as special education services state aid as medicaid replacement state aid. The amount designated by the state board shall not exceed \$9,000,000 in any school year.

(c) Subject to the limitations of this section and appropriations therefor, each school district shall be entitled to medicaid replacement state aid. The amount of such state aid shall be computed by the state board as provided in this section. The state board shall:

(1) Determine the total number of medicaid children in all school districts on March 1 of each school year;

(2) divide the amount of moneys designated as medicaid replacement state aid by the amount determined under paragraph (1); and

(3) multiply the quotient determined under paragraph (2) by the number of medicaid children in each school district on March 1 of each school year. The product is the amount of medicaid replacement state aid the district is entitled to receive.

(d) All amounts received by a school district under this section shall be deposited in the general fund of the district and shall be transferred to the special education fund of the district.

(e) The board of education of any district desiring to receive state aid pursuant to this section shall submit any documentation or information to the state board as it may request. The state board may establish deadlines for the submission of such documentation and information.

(f) The state board shall make the distribution of moneys under this section prior to determining the amount of state aid to be distributed under K.S.A. 72-978, and amendments thereto.

(g) The state board shall prescribe all forms necessary for reporting under this section.”;

And by renumbering the remaining sections accordingly;

On page 7, in line 39, by striking “2010” and inserting “2011”; in line 40, by striking “the”; in line 41, by striking “day” and inserting “September 20th of the school year”;

On page 8, in line 6, by striking “2010” and inserting “2011”; in line 8, by striking “the day” and inserting “September 20th of the school year”; in line 15, by striking “the day” and inserting “September 20th of the school year”; in line 23, by striking “prior to” and inserting “on September 20th of the school year preceding”; following line 29 by inserting:

“(6) If the consolidation involved the consolidation of three or more school districts, regardless of the number of pupils enrolled in the districts, the state financial aid of the newly consolidated district for the four school years following the school year in which the consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.”;

On page 9, in line 1, by striking “2010” and inserting “2011”; in line 2, by striking “the day” and inserting “September 20th of the school year”; in line 6, by striking “consolidation” and inserting “attachment”; in line 10, by striking “2010” and inserting “2011”; in line 11, by striking “the day” and inserting “September 20th of the school year”; in line 15, by striking “consolidation” and inserting “attachment”; in line 19, by striking “the day” and inserting “September 20th of the school year”; in line 23, by striking “consolidation” and inserting “attachment”; in line 27, by striking “prior to” and inserting “on September 20th of the school year preceding”; in line 30, by striking “consolidation” and inserting “attachment”; following line 32 by inserting:

“(7) If three or more school districts, regardless of the number of pupils enrolled in the districts, are disorganized and attached to a single district, the state financial aid of the enlarged district for the four school years following the school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.”;

On page 11, by striking all in lines 1 and 2; following line 2 by inserting:

“Sec. 13. K.S.A. 72-1046b and 72-8702 and K.S.A. 2007 Supp. 72-6407, 72-6407, as amended by 2008 Senate Bill No. 669, 72-6410, 72-6445a and 72-6455 are hereby repealed.”;

And by renumbering the remaining section accordingly;

Also on page 11, in line 4, by striking “statute book” and inserting “Kansas register”;

In the title, by striking all in lines 16 through 20 and inserting:

“AN ACT concerning school districts; relating to the powers and duties thereof; relating to school finance; making appropriations for the department of education for the fiscal years ending June 30, 2009, and June 30, 2010; amending K.S.A. 72-1046b and 72-8702 and K.S.A. 2007 Supp. 72-6407, 72-6410, 72-6445a and 72-6455 and repealing the existing sections; also repealing 72-6407, as amended by 2008 Senate Bill No. 669.”

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

CLAY AURAND

DEENA HORST

SUE STORM

*Conferees on part of House*

JEAN KURTIS SCHODORF

JOHN VRATIL

ANTHONY HENSLEY

*Conferees on part of Senate*

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 531**.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Huelskamp, Journey, Pyle.

Absent or Not Voting: Palmer.

The Conference Committee report was adopted.



## EXPLANATION OF VOTE

MR. PRESIDENT: While there are positive items in this bill, I cannot support spending \$37.2 million more 2 years from now. Our budget is precariously in danger of slipping into the red right now and it is fiscally irresponsible to spend money now that we may never have. — TIM HUELSKAMP

Senator Pyle requests the record to show he concurs with the "Explanation of Vote" offered by Senator Huelskamp on **SB 531**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2359**, 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 21 through 43;

By striking all on pages 2 through 19 and inserting the following:

"Section 1. K.S.A. 2007 Supp. 12-4516 is hereby amended to read as follows: 12-4516.

(a) (1) Except as provided in subsection (b) or (c), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction and related arrest records if three or more years have elapsed since the person:

(A) Satisfied the sentence imposed; or

(B) was discharged from probation, parole or a suspended sentence.

(2) Except as provided in subsection (b) or (c), any person who has fulfilled the terms of a diversion agreement based on a violation of a city ordinance of this state may petition the 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) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto;

(2) 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;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto;

(4) a violation of the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications;

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

(6) 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;

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

(8) a violation of K.S.A. 21-3405b, and amendments thereto.

(c) There shall be no expungement of convictions or diversions for a violation of a city ordinance which would also constitute a violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto.

(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. 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 agency or diverting authority. A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section. 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 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 and gaming 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) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

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

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

(H) 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;

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

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

(K) *for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto;*

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

(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.

(g) Whenever a person is convicted of an ordinance violation, pleads guilty and pays a fine for such a violation, is placed on parole or probation or is granted a suspended sentence for such a violation, 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 an offense has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such offense.

(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 and gaming 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 racing and gaming 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 of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(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-state 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 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;

(14) the Kansas sentencing commission;

(15) the Kansas commission on peace officers' standards and training 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; or

(16) 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.

Sec. 2. K.S.A. 21-4619 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) 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;

(3) 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;

(4) 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;

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

(6) 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;

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

(8) 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. 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; (20) a violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation; (21) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or (22) 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. 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. 2007 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 and gaming 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) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

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

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

(H) 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;

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

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

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 75-7c01 et seq., 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 and gaming 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 racing and gaming 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 of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;
- (11) the Kansas sentencing commission;
- (12) 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;
- (13) 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;
- (14) the Kansas commission on peace officers' standards and training 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;

(15) 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

(16) 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.

Sec. 3. K.S.A. 2007 Supp. 75-7c04 is hereby amended to read as follows: 75-7c04. (a) ~~On and after January 1, 2007,~~ The attorney general shall issue a license pursuant to this act if the applicant:

(1) Is a resident of the county where application for licensure is made and has been a resident of the state for six months or more immediately preceding the filing of the application, residency to be determined in accordance with K.S.A. 77-201, and amendments thereto;

(2) is 21 years or more of age;

(3) does not suffer from a physical infirmity which prevents the safe handling of a weapon;

~~(4) has never been convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a felony under the laws of this state or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a felony under the laws of this state if committed by an adult;~~

*(4) (A) has been convicted or placed on diversion for an act that constitutes a felony under the laws of this state or any other jurisdiction and: (i) Such felony is expungeable pursuant to K.S.A. 21-4619, and amendments thereto, or similar provision from another jurisdiction; (ii) such felony has been expunged; and (iii) the requirements of subsection (d) are otherwise met;*

*(B) has not been convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a felony under the laws of this state and such felony is not subject to expungement pursuant to K.S.A. 21-4619, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a felony under the laws of this state if committed by an adult;*

(5) has never been convicted, in this or any other jurisdiction, for an act that constitutes a misdemeanor crime of domestic violence, as defined by 18 U.S.C. 921(a)(33)(A) or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor crime of domestic violence under 18 U.S.C. 921(a)(33)(A) if committed by an adult;

(6) has not been, during the five years immediately preceding the date the application is submitted: (A) Convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a misdemeanor under the provisions of the uniform controlled substances act or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor under such act if committed by an adult; (B) convicted or placed on diversion, in this or any other jurisdiction, two or more times for an act that constitutes a violation of K.S.A. 8-1567, and amendments thereto; (C) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a domestic violence misdemeanor under any municipal ordinance or article 34 or 35 of chapter 21 of the Kansas Statutes Annotated or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a domestic violence misdemeanor under article 34 or 35 of chapter 21 of the Kansas Statutes Annotated if committed by an adult; or (D) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a violation of K.S.A. 2007 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a violation of K.S.A. 2007 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, if committed by an adult;

(7) has not been charged with a crime which would render the applicant, if convicted, ineligible for a license or, if so charged, final disposition of the charge has occurred and no other charges are pending which would cause the applicant to be ineligible for a license;



(8) has not been ordered by a court to receive treatment for mental illness pursuant to K.S.A. 59-2966, and amendments thereto, or for an alcohol or substance abuse problem pursuant to K.S.A. 59-29b66, and amendments thereto, or, if a court has ordered such treatment, has not been issued a certificate of restoration pursuant to K.S.A. 2007 Supp. 75-7c26, and amendments thereto, not less than five years before the date of the application;

(9) desires a legal means to carry a concealed weapon for lawful self-defense;

(10) except as provided by subsection (g) of K.S.A. 2007 Supp. 75-7c05, and amendments thereto, presents evidence satisfactory to the attorney general that the applicant has satisfactorily completed a weapons safety and training course approved by the attorney general pursuant to subsection (b);

(11) has not been adjudged a disabled person under the act for obtaining a guardian or conservator, or both, or under a similar law of another state or the District of Columbia, unless the applicant was ordered restored to capacity three or more years before the date on which the application is submitted;

(12) has not been dishonorably discharged from military service;

(13) is a citizen of the United States;

(14) is not subject to a restraining order issued under the protection from abuse act, under the protection from stalking act or pursuant to K.S.A. 60-1607, K.S.A. 2007 Supp. 38-2242, 38-2243 or 38-2255, and amendments thereto, or any equivalent order entered in another state or jurisdiction which is entitled to full faith and credit in Kansas; and

(15) is not in contempt of court in a child support proceeding.

(b) (1) The attorney general shall adopt rules and regulations establishing procedures and standards as authorized by this act for an eight-hour weapons safety and training course required by this section. Such standards shall include: (A) A requirement that trainees receive training in the safe storage of weapons, actual firing of weapons and instruction in the laws of this state governing the carrying of a concealed weapon and the use of deadly force; (B) general guidelines for courses which are compatible with the industry standard for basic firearms training for civilians; (C) qualifications of instructors; and (D) a requirement that the course be: (i) A weapons course certified or sponsored by the attorney general; or (ii) a weapons course certified or sponsored by the national rifle association or by a law enforcement agency, college, private or public institution or organization or weapons training school, if the attorney general determines that such course meets or exceeds the standards required by rules and regulations adopted by the attorney general and is taught by instructors certified by the attorney general or by the national rifle association, if the attorney general determines that the requirements for certification of instructors by such association meet or exceed the standards required by rules and regulations adopted by the attorney general. Any person wanting to be certified by the attorney general as an instructor shall submit to the attorney general an application in the form required by the attorney general and a fee not to exceed \$150.

(2) The cost of the weapons safety and training course required by this section shall be paid by the applicant. The following shall constitute satisfactory evidence of satisfactory completion of an approved weapons safety and training course: (A) Evidence of completion of the course, in the form provided by rules and regulations adopted by the attorney general; or (B) an affidavit from the instructor, school, club, organization or group that conducted or taught such course attesting to the completion of the course by the applicant.

(c) In addition to the requirements of subsection (a), a person holding a license pursuant to this act, prior to renewal of the license provided herein, shall submit evidence satisfactory to the attorney general that the licensee has requalified by completion of an approved course given by an instructor of an approved weapons safety and training course under subsection (b).

(d) *If an applicant has had a conviction or diversion described in subsection (a)(4)(A) or (a)(6) expunged pursuant to K.S.A. 12-4516 or 21-4619, and amendments thereto, or similar provision from another jurisdiction, and the applicant has been eligible for expungement for five years or more immediately preceding the date the application for licensure is submitted, the applicant shall not be disqualified from being issued a license if the applicant is otherwise qualified for licensure pursuant to this section.*

Sec. 4. K.S.A. 21-4619 and K.S.A. 2007 Supp. 12-4516 and 75-7c04 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.”;

On page 1, in the title, by striking all in lines 14 through 18 and inserting the following: “AN ACT concerning expungement; amending K.S.A. 21-4619 and K.S.A. 2007 Supp. 12-4516 and 75-7c04 and repealing the existing sections.”;

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 2359**.

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

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

Absent or Not Voting: Palmer.

The Conference Committee report was adopted.

#### **REPORT ON ENROLLED BILLS**

**SR 1860, SR 1861, SR 1862, SR 1863** reported correctly enrolled, properly signed and presented to the Secretary of the State on May 2, 2008.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Saturday, May 3, 2008.

HELEN MORELAND, CHARLENE BAILEY, PAT MATZEK, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

