

Journal of the Senate

FIFTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, April 26, 2006—10:00 a.m.

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

Heavenly Father,
We ought to know by now
You're not a First Aid Kit,
Or a person we've invented
With whom to chat a bit.

We should have now discovered
That prayer's no superstition;
When prayed within Your will, O God,
You answer our petitions.

We've been somewhat successful
State and church to separate;
But in the process we have found
It's God who's hard to legislate.

By now we should have found
After some research,
That God is in the State House
Just as much as in the Church.

So it should be now apparent
We need to call on You
To provide us with solutions
For everything we do.

I pray in the name of Jesus Christ,
AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:
Assessment and Taxation: **SB 597**; **HB 2618**.
Federal and State Affairs: **SB 598**.

REPORT ON ENGROSSED BILLS

SB 269, **SB 411** reported correctly engrossed April 3, 2006.
Also, **SB 352**, **SB 414** correctly re-engrossed April 3, 2006.
Sub SB 449; **SCR 1619** reported correctly engrossed April 4, 2006.
Also, **SB 344**, **SB 374**, **SB 388**, **SB 505**, **SB 547** correctly re-engrossed April 4, 2006.

H Sub for SB 85; Sub SB 253; SB 442; Sub SB 539; SB 553 reported correctly engrossed April 5, 2006.

H Sub for SB 196, H Sub for SB 270; SB 271, SB 305, SB 336, SB 350, SB 408; H Sub for SB 475; SB 480, SB 578 correctly re-engrossed April 5, 2006.

REPORT ON ENROLLED BILLS

SR 1835, SR 1836, SR 1837, SR 1838 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 3, 2006.

SR 1824 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 5, 2006.

SB 449 reported correctly enrolled, properly signed and presented to the Governor on April 6, 2006.

H Sub for SB 93; SB 414 reported correctly enrolled, properly signed and presented to the Governor on April 7, 2006.

SB 25; H Sub for SB 35; H Sub for SB 76; H Sub for Sub SB 85; H Sub for SB 196; H Sub for SB 207; Sub SB 253; SB 269; H Sub for SB 270; SB 271; H Sub for SB 278; SB 305, SB 336, SB 344, SB 350, SB 352, SB 374, SB 388; H Sub for SB 396; SB 408, SB 411, SB 442; H Sub for SB 475; SB 480, SB 497, SB 505; H Sub for SB 522; Sub SB 539; SB 547, SB 553; H Sub for SB 574; H Sub for SB 577; SB 578; H Sub for SB 579 reported correctly enrolled, properly signed and presented to the Governor on April 10, 2006.

MESSAGE FROM THE GOVERNOR

SB 361, SB 405, SB 407, SB 420, SB 500, SB 510 approved on April 3, 2006.

SB 544, SB 575 approved on April 5, 2006.

SB 139, SB 386, SB 417, SB 499 approved on April 6, 2006.

Sub SB 449 approved on April 7, 2006.

H Sub for SB 93; SB 414 approved on April 12, 2006.

H Sub for Sub SB 85; H Sub for SB 207; SB 305, SB 408, SB 442; H Sub for SB 522; Sub SB 539; SB 578 approved on April 17, 2006.

H Sub for SB 35; H Sub for SB 76; Sub SB 253; H Sub for SB 270; H Sub for SB 278; SB 344, SB 350, SB 374, SB 388, SB 411; H Sub for 475 approved on April 18, 2006.

SB 25; H Sub for SB 196; SB 336; SB 497, SB 505, SB 553 approved on April 19, 2006.

SB 269, SB 271, SB 352; H Sub for SB 396; SB 547; H Sub for SB 574, H Sub for SB 577, H Sub for SB 579 approved on April 20, 2006.

MESSAGE FROM THE GOVERNOR

This budget represents the values of Kansans and closely follows our shared priorities. Therefore, I have made no line-item vetoes and I am pleased to sign it into law.

The budget is still missing several key proposals, however.

Health insurance for Kansas children from birth to age five was not included in the budget passed by the Legislature, and neither was expansion of health insurance for small business employees. Similarly, support for the mentoring initiative being led by Coach Bill Snyder was absent. These tools would help Kansans make the most of their own lives, and I again urge you to support them.

Additionally, I still look forward to creating an incentive to bring jobs to Kansas by signing into law property tax relief for new business machinery and equipment.

Most importantly, I encourage legislators to continue to work together to solve the greatest challenge facing our state: the need for strong schools and a well-educated workforce. I pledge to continue to work with you as we seek to guarantee every Kansas child has the opportunity to go to a first-class school, regardless of whether that child lives in Johnson City or Johnson County, and I look forward to signing a school plan into law.

Approved **SB 480** April 18, 2006

Signed Kathleen Sebelius

April 20, 2006

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Kathleen Sebelius
Governor

Member, Pooled Money Investment Board, John Cleland pursuant to the authority vested in me by KSA 75-4221a, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Pooled Money Investment Board, John Lehman pursuant to the authority vested in me by KSA 75-4221a, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, State Banking Board, Mark Parman pursuant to the authority vested in me by KSA 74-3004, effective upon the date of confirmation by the Senate, to serve a term of three years.

Member, State Banking Board, Jane Schnellbacher pursuant to the authority vested in me by KSA 74-3004, effective upon the date of confirmation by the Senate, to serve a term of three years.

Member, State Banking Board, Joseph Smith pursuant to the authority vested in me by KSA 74-3004, effective upon the date of confirmation by the Senate, to serve a term of three years.

Member, Kansas Lottery Commission, Jeanine McKenna pursuant to the authority vested in me by KSA 74-8709, effective upon the date of confirmation by the Senate, to serve a term of four years.

Commissioner of the Juvenile Justice Authority, Don Jordan pursuant to the authority vested in me by KSA 75-7001, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

VETO SUSTAINED

Announcing a veto message from the Governor on **SB 461**, An act concerning workers compensation; relating to preexisting condition; permanent partial general disability; amending K.S.A. 44-510e and K.S.A. 2005 Supp. 44-501 and repealing the existing sections, was received and read.

There being no action on **SB 461**, the veto was sustained.

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF REVENUE
Office of the Secretary

April 1, 2006

Required by Kansas Law K.S.A. 74-50,118(c) Joan Wagnon, Secretary, submitted the annual report to the Governor and Legislature estimating the state tax expenditures from income tax credits claimed and sales tax exemptions allowed under the Kansas Enterprise Zone Act.

DEPARTMENT OF COMMERCE

April 7, 2006

Howard R. Fricke, Secretary, submitted the Annual Report to the Governor and the Legislature on the Kansas Enterprise Zone program as required by K.S.A. 74-50,118(b).

KANSAS ADVISORY COUNCIL ON INTERGOVERNMENTAL RELATIONS

April 20, 2005

Pursuant to the requirements in K.S.A. 12-4002(b), Mike Boehm, Chairman, submitted the following report concerning the activities of the Kansas Advisory Council on Intergovernmental Relations (KACIR) during 2005.

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

CHANGE OF CONFERENCE

The President announced the appointment of Senator Jordan as a member of the Conference Committee on **SB 528** to replace Senator V. Schmidt.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1839—

A RESOLUTION recognizing the 150th anniversary of the dispersion of the free state legislature.

WHEREAS, One of our state's most exciting events occurred nearly 150 years ago on July 4, 1856, when Col. Edwin V. Sumner, on orders of Franklin Pierce, President of the United States, dispersed the free state legislature meeting in Constitution Hall—Topeka; and

WHEREAS, Historians have said that if shots had been fired that day on Kansas Avenue, the Civil War would have begun then, five years earlier than it did; and

WHEREAS, The Kansas Legislature in 1998 appropriated funds to Friends of the Free State Capitol to purchase Constitution Hall—Topeka, thereby preventing its demolition and assisting in steps toward its restoration; and

WHEREAS, The National Park Service in 2001 registered Constitution Hall—Topeka for its importance in drafting the state's first free state constitution and for being an historic site of the underground railroad; and

WHEREAS, The Kansas State Historical Society in 2005 recognized that Constitution Hall—Topeka is a nationally significant historic site eligible for listing in the National Register of Historic Places; and

WHEREAS, Efforts are being made for the summer of 2006 in downtown Topeka to celebrate the 150th anniversary of the dispersion of the free state legislature: Now, therefore,

Be it resolved by the Senate of the State of Kansas: In recognition of the glorious history of the State of Kansas, we commemorate the 150th anniversary of the dispersion of the free state legislature.

On emergency motion of Senator Kelly **SR 1839** was adopted unanimously.

Guests in the chamber for the resolution were Doug Wallace, Chris Meinhardt, Don Lambert and Michael Stubbs. Lt. Governor John Moore read an account of the Dispersion by J.P. Root, who was at the dispersion and was later elected the first Lt. Governor of Kansas.

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

SENATE RESOLUTION No. 1840—

A RESOLUTION congratulating and commending Max Falkenstien upon his retirement after 60 years of broadcasting Kansas University (KU) sporting events.

WHEREAS, Hall of Fame broadcaster Max Falkenstien retired as color commentator on the University of Kansas radio network after the last game of the 2005-06 men's basketball season. This was his 60th season of covering Jayhawk football and basketball. Max broadcast some 1,750 KU basketball games, including every game ever played in Allen Fieldhouse, and 650 KU football games; and

WHEREAS, The Naismith Basketball Hall of Fame and the College Football Hall of Fame both have honored Falkenstien. He has been inducted into the State of Kansas Sports Hall of Fame and the KU Athletics Hall of Fame, and was the first inductee of the Lawrence High School Hall of Honor. In addition, he has been awarded an honorary "K" by the Kansas Letterman's Club; and

WHEREAS, The Sporting News in 2001 named Falkenstien "the best college radio personality in the country", and television's Dick Vitale selected Bob and Max to his "Sweet 16" of the best college basketball announcing teams in the country; and

WHEREAS, Falkenstien broadcast his first basketball game—an NCAA tournament game in Kansas City between KU and Oklahoma A&M on March 18, 1946. His next broadcast was KU’s football opener against Texas Christian University on September 21, 1946. He served as the play-by-play voice of the Jayhawks for 39 years, and switched to the commentator’s role in September 1984, when Bob Davis assumed the play-by-play duties. This duo has become so well known over the last 20 years that they are referred to simply as “Bob and Max”; and

WHEREAS, Max also broadcast on television by providing the play-by-play for the Big 8 Conference men’s basketball Game of the Week between 1968 and 1971. For more than three decades he hosted football and basketball coaches’ television shows, including those for Don Fambrough, Pepper Rogers, Mike Gottfried, Ted Owens, Larry Brown and Roy Williams: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Max Falkenstien upon his retirement from broadcasting Kansas University sporting events, and after hearing his voice for 60 years know he will be sorely missed; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Senator Wysong for presentation to Mr. Falkenstien.

On emergency motion of Senator Wysong **SR 1840** was adopted unanimously.

Senator Wysong and members of the Senate congratulated Max Fralkenstien on his 60th season as color commentator on the KU radio network, with a standing ovation. Accompanying Max were his sister Jane Hart, son, Kurt, Lew Perkins and Jim Marchiony.

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

SENATE RESOLUTION No. 1841—

A RESOLUTION congratulating and commending the Olathe South Senior High School girls volleyball team and Coaches Talcott, Bench and Chrisler.

WHEREAS, The Olathe South Senior High School girls volleyball team is the 2006 Kansas State Activities Association class 6A girls volleyball champions—the first such state championship for the school and for any Olathe high school; and

WHEREAS, The team finished the season with a record of 37 wins and 5 losses and are the Sunflower League champions. In tournament competition the team defeated Olathe North and Lawrence high schools at the sub-state level. In the state tournament they defeated Maize and Olathe Northwest, in the semi-finals Washburn Rural, the 2004 champion, and in the championship game Blue Valley North; and

WHEREAS, Other honors for the team included being the Moline, Illinois, Invitational Champions and the Shawnee Mission South Tournament Champions. Leslie Clark was named the Kansas Player of the Year and to the National High School All-American Team; and

WHEREAS, The members of this outstanding volleyball team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team was due to its excellent teamwork, strong competitive spirit and determination to win. The team also had the enthusiastic support of the school’s administrators, the faculty, the students, the players’ parents and many area citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe South Senior High School girls volleyball team and Coach Chrisler upon being the 2006 Kansas State Activities Association class 6A girls volleyball champions and wish them continued success; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Mr. Phil Clark, Principal, Olathe South Senior High School, 1640 E. 151st Street, Olathe, KS 66062-2851.

On emergency motion of Senator Brownlee **SR 1841** was adopted unanimously.

Team members and their coach were recognized and congratulated.

Senators Brownlee and Wilson introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1842—

A RESOLUTION congratulating and commending the Olathe East Senior High School boys soccer team and Coach Hair.

WHEREAS, The Olathe East High School boys soccer team won the 2005 Kansas State High School Athletic Association class 6A state soccer championship by defeating the Blue Valley North Mustangs two to one in a hard fought championship game on November 5; and

WHEREAS, The competition commenced with 32 class 6A teams. At the regional competition the team defeated Shawnee Mission Northwest two to one and Blue Valley Northwest one to zero. Following on, the team defeated Lawrence Free State five to two at the elite eight. At the final four, the team recorded a school record 11 shutouts by defeating Washburn Rural High School one to zero. The championship game featured strong defense by the Hawks to come away with the victory and the championship; and

WHEREAS, The team finished the season with a record of 18 wins, 2 losses and 1 tie and its third consecutive Sunflower League championship, in addition to being the class 6A champions. Matt Waid, Adam Tayami and Keith Parkhurst were named as first team All-State Players; and

WHEREAS, The members of this outstanding team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team was due to its excellent teamwork, strong competitive spirit and determination to win. The team also had the enthusiastic support of the school's administrators, the faculty, the students, the players' parents and many area citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe East High School boys soccer team and Coach Hair upon being the 2005 class 6A state soccer champions and wish them continued success; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Dr. Tom Barry, Principal, Olathe East Senior High School, 14545 W. 127th Street, Olathe, KS 66062-1486.

On emergency motion of Senator Brownlee **SR 1842** was adopted unanimously.

Team members and their coach were recognized and congratulated.

Senators Brownlee and Wilson introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1843—

A RESOLUTION congratulating and commending the Olathe East Senior High School girls softball team and Coach Hulse.

WHEREAS, The Olathe East Senior High School girls softball team won the 2005 Kansas State High School Activities Association class 6A championship with a three to two come from behind victory over Shawnee Mission Northwest at Lawrence on May 28. This was the culmination of a perfect 25 to 0 season. It was a repeat of a 24 to one season and the state championship for 2004 and the fourth state championship for the school; and

WHEREAS, Seven members of the team received all-state honors: Val Chapple, Casey Gorrell, Teddi Ewing, Alex Hupp, Ashlyn Smith, Ashley Guile and Kristen Rock. Additionally, Val Chapple was named the 2005 National Senior Softball Player of the Year by the National High School Coaches Association and the Gatorade Kansas Player of the Year, and Coach Hulse was named The Olathe News Female Coach of the Year; and

WHEREAS, The members of this outstanding softball team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team was due to its excellent teamwork, strong competitive spirit and determination to win. The team also had the enthusiastic support of the school's administrators, the faculty, the students, the players' parents and many area citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe East Senior High School girls softball team and Coach Hulse upon being the

Kansas High School Activities Association class 6A softball champions for the second consecutive year and wish them continued success; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Dr. Tom Barry, Principal, Olathe East Senior High School, 14545 W. 127th Street, Olathe, KS 66062-1486.

On emergency motion of Senator Brownlee **SR 1843** was adopted unanimously. Team members and their coach were recognized and congratulated.

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

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 599. An act designating a portion of United States highway 69 as the Gordon Parks memorial highway; amending K.S.A. 68-1038 and repealing the existing section, by Committee on Ways and Means.

SB 600. An act establishing the nurse educator service scholarship program; providing for the administration thereof, by Committee on Ways and Means.

MESSAGE FROM THE HOUSE

Announcing the House nonconcur in Senate amendments to **HB 3005**, requests a conference and has appointed Representatives D. Johnson, F. Miller and Svaty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 70** and has appointed Representatives C. Holmes, Carlson and Hawk as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 84** and has appointed Representatives Neufeld, Landwehr and Ballard as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 303** and has appointed Representatives C. Holmes, Carlson and Kuether as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 379**, and has appointed Representatives Vickrey, Huebert and Sawyer as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 503**, and has appointed Representatives Schwartz, Powell and Williams as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 512**, and has appointed Representatives Shultz, Carter and Dillmore as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 528**, and has appointed Representatives Jim Morrison, Mast and Kirk as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SCR 1624**, and has appointed Representatives D. Johnson, F. Miller and Svaty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 332**, and has appointed Representatives Sloan, E. Johnson and Carlin as second conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 3005**.

The President appointed Senators Umbarger, Emler and Barone 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: **SB 546; HB 2916**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Barnett moved the Senate concur in house amendments to **SB 546**.

SB 546. An act concerning the board of emergency medical services; establishing a state-wide data collection system.

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, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Emler.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2916**, submits the following report:

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

On page 1, in line 25, by striking all after "tests"; by striking all of line 26; in line 27, by striking all before "of"; in line 38, before "or", by inserting "while having alcohol or other drugs in such person's system,";

On page 5, following line 20, by inserting:

"Sec. 2. K.S.A. 2005 Supp. 8-1012 is hereby amended to read as follows: 8-1012. (a) *Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent to submit to a preliminary screening test of the person's breath subject to the provisions set out in subsection (b).*

(b) A law enforcement officer may request a person who is operating or attempting to operate a vehicle within this state to submit to a preliminary screening test of the person's breath to determine the alcohol concentration of the person's breath if the officer has reasonable grounds to believe ~~that the person:~~ (a) ~~Has alcohol in the person's body;~~ (b) ~~has committed a traffic infraction;~~ or (c) ~~has been involved in a vehicle accident or collision.~~ *has been operating or attempting to operate a vehicle while under the influence of alcohol or drugs or both alcohol and drugs.*

(c) At the time the test is requested, the person shall be given oral notice that: (1) There is no right to consult with an attorney regarding whether to submit to testing; (2) refusal to submit to testing is a traffic infraction; and (3) further testing may be required after the preliminary screening test. Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test.

(d) Refusal to take and complete the test as requested is a traffic infraction. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 8-1001 and amendments thereto. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vehicle except to aid the court or hearing officer in determining a

challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 8-1001 and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 8-1001 and amendments thereto.”;

And by renumbering the remaining sections accordingly;

On page 10, following line 23, by inserting:

“Sec. 7. K.S.A. 2005 Supp. 41-727 is hereby amended to read as follows: 41-727. (a)

Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a class C misdemeanor for which the minimum fine is \$200.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the Kansas juvenile justice code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than \$200 nor more than \$500.

(d) In addition to any other penalty provided for a violation of this section: (1) The court may order the offender to do either or both of the following:

(A) Perform 40 hours of public service; or

(B) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans; and

(2) upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.

(3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.

(4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) Any city ordinance or county resolution prohibiting the acts prohibited by this section shall provide a minimum penalty which is not less than the minimum penalty prescribed by this section.

(g) *A law enforcement officer may request a person under 21 years of age to submit to a preliminary screening test of the person's breath to determine if alcohol has been consumed by such person if the officer has reasonable grounds to believe that the person has alcohol in the person's body except that, if the officer has reasonable grounds to believe the person has been operating or attempting to operate a vehicle under the influence of alcohol, the provisions of K.S.A. 8-1012, and amendments thereto, shall apply. No waiting period shall apply to the use of a preliminary breath test under this subsection. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made for violation of this section. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results or a refusal to submit to a preliminary breath test shall be admissible in court in any criminal action, but are not per se proof that the person has violated this section. The person may present to the court evidence to establish the positive preliminary screening test was not the result of a violation of this section.*

(h) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 8. K.S.A. 65-1,107 is hereby amended to read as follows: 65-1,107. The secretary of health and environment may adopt rules and regulations establishing:

(a) The procedures, testing protocols and qualifications of authorized personnel, instruments and methods used in laboratories performing tests for the presence of controlled substances included in schedule I or II of the uniform controlled substances act or metabolites thereof;

(b) the procedures, testing protocols, qualifications of personnel and standards of performance in the testing of human breath for law enforcement purposes, including procedures for the periodic inspection of apparatus, equipment and devices, other than preliminary screening devices, approved by the secretary of health and environment for the testing of human breath for law enforcement purposes;

(c) the requirements for the training, certification and periodic testing of persons who operate apparatus, equipment or devices, other than preliminary screening devices, for the testing of human breath for law enforcement purposes;

(d) criteria for preliminary screening devices for testing of breath for law enforcement purposes, based on health and performance considerations; and

(e) a list of preliminary screening devices which are approved for testing of breath for law enforcement purposes and which law enforcement agencies may purchase and train officers to use as aids in determining: (1) Probable cause to arrest and grounds for requiring testing pursuant to K.S.A. 8-1001, and amendments thereto; and (2) violations of K.S.A. 41-727, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

Also on page 10, in line 24, by striking the first “and” and inserting a comma; also in line 24, after “8-1015”, by inserting “and 65-1,107”; in line 25, by striking “and” and inserting “, 8-1012,”; also in line 25, after “21-3610c”, by inserting “and 41-727”;

In the title, in line 14, after “alcohol”, by inserting “and drugs”; in line 16, before “ignition”, by inserting “preliminary screening tests;”; in line 18, by striking the first “and” and inserting a comma; also in line 18, after “8-1015”, by inserting “and 65-1,107”; also in line 18, by striking the third “and” and inserting “, 8-1012,”; also in line 18, after “21-3610c”, by inserting “and 41-727”;

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 2916**.

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

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

Nays: Haley.

Absent or Not Voting: Emler.

The Conference Committee report was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1844—

A RESOLUTION congratulating and commending the Kansas State University women's basketball team and head coach Deb Patterson.

WHEREAS, The Kansas State University women's basketball team defeated Marquette University to become the 2005-06 WNIT champions, the first postseason championship title in the school's history. The team finished the year with a record of 24 wins to 10 losses and was eight to eight in league play. This year was the fifth consecutive 20-win season for the team and the fifth consecutive appearance in postseason competition. The team played 19 games at Bramlage Coliseum and five overtime games throughout the year; and

WHEREAS, The team had solid, enthusiastic fan support throughout the year. Attendance at their games averaged 6,281 per game, and the team enjoyed the support of a sellout crowd of 13,340 for the WNIT championship game, the second largest tournament crowd in WNIT history; and

WHEREAS, Junior combination guard/forward Claire Coggins was named as the Most Valuable Player of the postseason WNIT and Sophomore guard Kimberly Dietz was named to the postseason WNIT All-tournament Team. Freshman point guard Shalee Lehning became the school's all-time leader in single-season assists (189), and Freshman forward Marlies Gipson set the freshman single-season record of blocked shots (62); and

WHEREAS, Head coach Deb Patterson coached her 300th game at K-State during the year and has 199 victories during her coaching career: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Kansas State University women's basketball team and head coach Deb Patterson upon being the 2006 WNIT champions and for the success the team achieved throughout the 2005-06 basketball season.

On emergency motion of Senator Reitz **SR 1844** was adopted unanimously.

President Morris along with members of the Senate welcomed and congratulated team members Kimberly Dietz, Twiggy McIntyre, Naytanda Smith, Joann Hamlin, Marlies Gipson, Danielle Zanotti, Claire Coggins, Jessica McFarland, Shalee Lehning, Carolyn McCullough and Shana Wheeler. Head Coach Deb Patterson along with her staff Shelley Jarrard, Jennie Lillis, Kamie Ethridge, Erin Sunde and Olga Firsova were also recognized.

TRIBUTE

Betty Quarnstrom long time clerk will be retiring at the end of this session with 23 years of service. Betty began working in the Senate in 1984. She has more seniority than all of the presently serving Senators. Betty has served under six Senate Presidents—Senators Doyen, Talkington, Burke, Bond, Kerr and Morris and has numbered over 10,000 bills and resolutions in her career. Betty has played a significant role in the success of the Kansas Senate.

Joining the Senate in honoring Betty were members of her family - husband, Carl Quarnstrom, her son David, her son Douglas and his wife Helen and their two children, Joel and Mary and friend Lois Birt.

REPORTS OF STANDING COMMITTEES

Committee on **Education** recommends **SB 584**, as amended by Senate Committee of the Whole, be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 584," as follows:

"Substitute for SENATE BILL No. 584

By Committee on Education

"AN ACT concerning school districts; relating to school finance; amending K.S.A. 72-6441 and K.S.A. 2005 Supp. 72-978, 72-6405, 72-6407, 72-6410, 72-6412, 72-6413, 72-6414, 72-6414a, 72-6414b, 72-6415b, 72-6426, 72-6433, 72-6434, 72-6442b and 72-9509 and repealing the existing sections."; and the substitute bill be passed.

Committee on **Ways and Means** recommends **HCR 5042**, as amended by House Committee, be adopted.

Also, **HB 2968** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL No. 2968," as follows:

"SENATE Substitute for HOUSE BILL No. 2968

By Committee on Ways and Means

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2006, June 30, 2007, June 30, 2008 and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing";
and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Thursday, April 27 2006.

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

PAT SAVILLE, *Secretary of the Senate.*

