

Journal of the Senate

SIXTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, May 2, 2006—10:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.

President Morris introduced as guest chaplain, Rev. Cecil T. Washington, Jr., Senior Pastor, The New Beginning Baptist Church, Topeka, Kansas, who delivered the invocation:

Heavenly Father,

In Psalm 100, vs 4, The Psalmist spoke of thankfully entering Your presence.
Father, Your presence is always present. Help us to thankfully enter the awareness of it.

Even now, awaken us to the consciousness that this morning it was You Who awakened us from our unconsciousness.

And then keep this assembly aware, alert and responsive to Your presence.

In Matthew 18:20, You promised Your presence, even with a small assembly of just 2 or 3, when they gather in Your Name.

Father, let the awareness of Your presence guide the attitudes and actions of this assembly as the work for this session draws to a close.

You told Moses, In Exodus 33:14, that Your presence would result in the provision of rest. Father, give these servants of Yours some much needed rest.

And when all our labors here are concluded, bring us into the presence of Your eternal rest.

Thank you for the awareness of Your being here.

I come to you, In the Name of Jesus the Christ, Amen

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Ways and Means: **HB 3021.**

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **SB 164.**

The House adopts the conference committee report on **SB 332.**

The House adopts the conference committee report on **SB 498.**

The House adopts the conference committee report on **SB 512.**

The House adopts the conference committee report on **SCR 1618.**

The House adopts the conference committee report on **Substitute HB 2706.**

The House adopts the conference committee report on **HB 2893.**

The House adopts the Conference Committee Report to agree to disagree on **SB 528** and has appointed Representatives Jim Morrison, Mast and Kirk as second conferees on the part of the House.

The House concurs in Senate amendments to **HB 3004** and requests the Senate to return the bill.

Announcing the House nonconcur in Senate amendments to **Senate Substitute for HB 2968**, requests a conference and has appointed Representatives Neufeld, Landwehr and Feuerborn as conferees on the part of the House.

Announcing passage of **Substitute SB 486, as amended**.

ORIGINAL MOTION

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **S Sub for HB 2968**.

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 164, SB 332, SB 498, SB 512; SCR 1618**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 164**, 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 7, by striking all in lines 15 through 42 and inserting the following:

“New Section 1. As used in sections 2 through 8, and amendments thereto:

(a) “Commission” means the unification commission appointed pursuant to section 2, and amendments thereto.

(b) “City” means any city located in Greeley county.

(c) “County” means Greeley county.

New Sec. 2. (a) Within 10 days of the effective date of this act, a unification commission shall be appointed. One member shall be appointed by the governing body of the city of Tribune, one member shall be appointed by the governing body of the city of Horace and two members shall be appointed by the board of county commissioners of the county. The fifth member shall be appointed by the members of the unification commission appointed by the cities and county and such member shall serve as the chairperson of the commission. Members of the commission shall include, but not be limited to, persons with experience in accounting, business management, municipal finance, law, education, political science or public administration. Members of the commission shall be residents of Greeley county.

(b) Members of the commission may be paid compensation, subsistence allowances, mileage and other expenses as provided by K.S.A. 75-3223, and amendments thereto.

(c) The members of the unification commission may appoint an executive director of the commission. The executive director may be paid compensation in an amount determined by the commission. If approved by the commission, the executive director may employ other staff and may contract with consultants, as the executive director deems necessary to carry out the functions of the commission. Staff employed by the executive director shall receive compensation established by the executive director.

(d) Within 30 days following the appointment of all members of the commission, the commission shall meet and organize by the election of a vice-chairperson and other officers deemed necessary. The commission may adopt rules governing the conduct of its meetings.

New Sec. 3. (a) The commission shall prepare and adopt a plan addressing the unification of the city and county or certain city and county offices, functions, services and operations. The commission shall conduct such studies and investigations as it deems appropriate to complete its work. Such studies and investigations shall include, but not be limited to, studies of the costs and benefits of unifying the city and county or certain city and county offices, functions, services and operations.

(b) The commission shall hold public hearings for the purpose of receiving information and materials which will aid in the drafting of the plan.

(c) Within one year following the appointment of all members of the commission, the commission shall prepare and adopt a preliminary plan addressing the unification of the city and county or certain city and county offices, functions, services and operations it deems advisable. Copies of the preliminary plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall hold at least two public hearings to obtain citizen views concerning the preliminary plan. Notice of such hearings shall be published at least twice in a newspaper of general circulation within the county. Following the public hearings on the preliminary plan, the commission may adopt, or modify and adopt, the preliminary plan as the final plan.

(d) Within 30 days of the last public hearing held on the preliminary plan, the commission shall adopt its final plan. The final plan shall include the full text and an explanation of the proposed plan, and comments deemed desirable by the commission, a written opinion by an attorney admitted to practice law in the state of Kansas and retained by the executive director for such purpose that the proposed plan is not in conflict with the constitution or the laws of the state, and any minority reports. Copies of the final plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall continue in existence at least 90 days following the submission of the final plan pursuant to this subsection.

(e) (1) The final plan shall be submitted to the qualified electors of the county at the next regular general election held in November of an even-numbered year. If the statutorily mandated duties of an elective office are to be eliminated or if the office is to be eliminated and the duties transferred to a nonelective office, the question of elimination of such duties or office shall be submitted to the voters as a separate ballot question. Such election shall be called and held by the county election officer in the manner provided by the general election law. Such election may be conducted by mail ballot. A summary of the final plan shall be prepared by the commission and shall be published once each week for two consecutive weeks in a newspaper of general circulation within the county. If a majority of the qualified electors voting on the plan who reside within the corporate limits of the city and a majority of the qualified electors voting on the plan who reside outside of the corporate limits of the city vote in favor thereof, the unification plan shall be implemented in the manner provided by the plan. If a majority of the electors who reside within the corporate limits of the city or a majority of the qualified electors who reside outside of the corporate limits of the city vote against such plan, the proposed unification plan shall not be implemented.

(2) Any proposed unification which eliminates an elective office shall provide that the elimination of such office shall become effective upon the date of normal expiration of the term of such office.

(3) If the final plan provides for the unification of the city of Horace with the county or the unification or elimination of any of the offices or powers, duties and functions of such offices of the city of Horace and a majority of the qualified electors of the city of Horace voting on the plan do not vote in favor thereof, the city of Horace and officers thereof shall continue in existence and operation as if no unification had occurred.

(4) If the commission submits a final plan which does not recommend the unification of the city and county or certain city and county offices, functions, services and operations, the provisions of this subsection shall not apply.

New Sec. 4. (a) Any plan submitted by the commission shall provide for the exercise of powers of local legislation and administration not inconsistent with the constitution or other laws of this state.

(b) If the commission submits a plan providing for the unification of certain city and county offices, functions, services and operations, the plan shall:

(1) Include a description of the form, structure, functions, powers and officers and the duties of such officers recommended in the plan.

(2) Provide for the method of amendment of the plan.

(3) Specify the effective date of the unification.

(4) Include other provisions determined necessary by the commission.

(c) If the plan provides for the unification of the city and county, in addition to the requirements of subsection (b) the plan shall:

(1) Provide that the members of the governing body be elected on an at-large basis and fix the number, term and initial compensation of the governing body of the unified city-county and the method of election.

(2) Determine whether elections of the governing body of the unified city-county shall be partisan or nonpartisan elections and the time at which such elections shall be held.

(3) Determine the distribution of legislative and administrative duties of the unified city-county officials, provide for unification or expansion of services as necessary, authorize the appointment of a city-county administrator or manager, if deemed advisable, and prescribe the general structure of the unified city-county government.

(4) Provide for the official name of the unified city-county.

(5) Provide for the transfer or other disposition of property and other rights, claims and assets of the county and city.

(6) Fix the rate of the retailers' sales tax, if any.

New Sec. 5. Greeley county is hereby designated an urban area, as authorized under the provisions of section 17 of article 2 of the constitution of the state of Kansas, for the purpose of granting to such county and urban area powers of local government and unification of local government.

New Sec. 6. (a) If the voters approve a plan which provides for the unification of the city and county, such unified city-county shall be subject to the provisions of this section.

(b) The unified city-county shall be subject to the cash-basis and budget laws of the state of Kansas.

(c) Except as provided in subsection (e), and in any other statute which specifically exempts bonds from the statutory limitations on bonded indebtedness, the limitation on bonded indebtedness of the unified city-county under this act shall be 30% of the assessed value of all tangible taxable property within such county on the preceding August 25.

(d) The following shall not be included in computing the total bonded indebtedness of the unified city-county for the purposes of determining the limitations on bonded indebtedness:

(1) Bonds issued for the purpose of refunding outstanding debt, including outstanding bonds and matured coupons thereof, or judgments thereon.

(2) Bonds issued pursuant to the provisions of article 46 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto.

(3) Bonds issued for the purpose of financing the construction or remodeling of a courthouse, jail or law enforcement center facility, which bonds are payable from the proceeds of a retailers' sales tax.

(4) Bonds issued for the purpose of acquiring, enlarging, extending or improving any storm or sanitary sewer system.

(5) Bonds issued for the purpose of acquiring, enlarging, extending or improving any municipal utility.

(6) Bonds issued to pay the cost of improvements to intersections of streets and alleys or that portion of any street immediately in front of city or school district property.

(e) Any bonded indebtedness and interest thereon incurred by the city or county prior to unification shall remain an obligation of the property subject to taxation for the payment thereof prior to such unification.

(f) Upon the effective date of the unification of the city and county, any retailers' sales tax levied by the city or county in accordance with K.S.A. 12-187 et seq., and amendment thereto, prior to such date shall remain in full force and effect, except that part of the rate attributable to the former city of Tribune shall not apply to retail sales in any other city located in the county.

(g) Upon the effective date of the unification of the city and county, the territory of the unified city-county shall include:

(1) All of the territory of the county for purposes of exercising the powers, duties and functions of a county.

(2) (A) Except as provided by paragraph (B), all of the territory of the county, except the territory of cities located in the county other than the former city of Tribune and the unincorporated area of the county, for purposes of exercising the powers, duties and functions of a city; or

(B) all the territory of the county located within the incorporated areas of the county, for the purpose of exercising the powers, duties and functions of a city. The provisions of this paragraph shall apply only if the final plan provides for the unification of the city of Horace with the county and a majority of the qualified electors of the county and a majority of the qualified electors of the city of Horace voting on the plan vote in favor thereof.

(h) For the purposes of section 1 of article 5 of the constitution of the state of Kansas, the "voting area" for the governing body of the unified city-county shall include all the territory within the county.

(i) Except for the unified city-county and unless otherwise provided by law, other political subdivisions of the county shall not be affected by unification of the city and county. Such other political subdivisions shall continue in existence and operation.

(j) Unless otherwise provided by law, the unified city-county shall be eligible for the distribution of any funds from the state and federal government as if no unification had occurred. Except as provided in this subsection, the population and assessed valuation of the territory of the unified city-county shall be considered its population and assessed valuation for purposes of the distribution of moneys from the state or federal government.

(k) The unified city-county shall be a county. The governing body of the unified city-county shall be considered county commissioners for the purposes of section 2 of article 4 of the constitution of the state of Kansas and shall have all the powers, functions and duties of a county and may exercise home rule powers in the manner and subject to the limitations provided by K.S.A. 19-101a, and amendments thereto, and other laws of this state.

The governing body of the unified city-county shall be responsible for any duties or functions imposed by the constitution of the state of Kansas and other laws of this state upon any county office abolished by the unification plan. Such duties may be delegated by the governing body or as provided in the unification plan.

(l) The unified city-county shall be a city of the first class. The governing body of the unified city-county shall have all the powers, functions and duties of a city of the first class and may exercise home rule powers in the manner and subject to the limitations provided by article 12 of section 5 of the constitution of the state of Kansas and other laws of this state.

(m) The governing body of the unified city-county may create special service districts within the city-county and may levy taxes for services provided in such districts.

(n) Changes in the form of government approved by the voters in accordance with the unification plan are hereby declared to be legislative matters and subject to initiative and referendum in accordance with K.S.A. 12-3013 et seq., and amendments thereto.

New Sec. 7. (a) The governing body of the unified city-county may not annex any land located outside the county.

(b) The governing body of the unified city-county may not initiate annexation procedures of land located within the county, but may annex land upon petition of the owners of any such land.

New Sec. 8. All costs incurred or authorized by the unification commission and all other costs incurred by the city and county pursuant to this act shall be paid by the city and county.

New Sec. 9. (a) Until a special election is held at which a final plan is submitted for approval to the electors or until a final plan which does not recommend unification of the city and county is adopted by a unification commission, the governing body of any city which is the subject of a study considering the unification of such city with the county in which such city is located may not initiate pursuant to K.S.A. 12-520, and amendments thereto, annexation procedures of land located within the county, but may annex land upon petition of the owners of any such land.

(b) As used in this section, "city" means any city located within Kansas.

(c) The provisions of this section shall expire on June 30, 2007.

New Sec. 10. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

Sec. 11. K.S.A. 2005 Supp. 19-205 is hereby amended to read as follows: 19-205. Except as provided by K.S.A. 12-344 ~~and~~, 12-345, *sections 4 and 6, and amendments thereto*, no person holding any state, county, township or city office shall be eligible to the office of county commissioner in any county in this state.

Nothing in this section shall prohibit the appointment of any county commissioner to any state board, committee, council, commission or similar body which is established pursuant to statutory authority, so long as any county commissioner so appointed is not entitled to receive any pay, compensation, subsistence, mileage or expenses for serving on such body other than that which is provided by law to be paid in accordance with the provisions of K.S.A. 75-3223, and amendments thereto.

Sec. 12. K.S.A. 2005 Supp. 19-205 is hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all in lines 14 through 17 and inserting “AN ACT concerning the unification of certain cities and counties; amending K.S.A. 2005 Supp. 19-205 and repealing the existing section.”;

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

JENE VICKREY
STEVE HUEBERT
TOM SAWYER
Conferees on part of House

TIM HUELSKAMP
KAY O'CONNOR
MARK GILSTRAP
Conferees on part of Senate

Senator Huelskamp moved the Senate adopt the Conference Committee Report on **SB 164**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 332**, 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 1, in line 38, by striking “to 75-6511, inclusive” and inserting “through 75-6511”;

On page 2, in line 3, by striking “to 75-6511, inclusive” and inserting “through 75-6511”; in line 8, by striking “to 75-3744, inclusive” and inserting “through 75-3744”; in line 23, by striking “to 75-3744, inclusive” and inserting “through 75-3744”; by striking all in lines 35 through 37 and inserting the following:

“(e) The state board of regents may enter into one or more group insurance contracts to provide health and accident insurance coverage or health care services of a health maintenance organization for all students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, and such students’ dependents, except that such insurance shall not provide coverage for elective procedures that are not medically necessary as determined by a treating physician. The participation by a student in such coverage shall

be voluntary. In the case of students who are employed by a state educational institution in a student position, the level of employer contributions toward such coverage shall be determined by the board of regents. The board of regents may adopt rules and regulations necessary to administer and implement the provisions of this section.

Sec. 2. K.S.A. 2005 Supp. 75-6501 is hereby amended to read as follows: 75-6501. (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program.

(b) The state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, non-medical remedial care and treatment rendered in accordance with a religious method of healing and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including but not limited to qualifications for benefits, services covered, schedules and graduation of benefits, conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by the commission.

(c) The Kansas state employees health care commission shall designate by rules and regulations those persons who are qualified to participate in the state health care benefits program, including active and retired public officers and employees and their dependents as defined by rules and regulations of the commission. *Such rules and regulations shall not apply to students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.* In designating persons qualified to participate in the state health care benefits program, the commission may establish such conditions, restrictions, limitations and exclusions as the commission deems reasonable. Such conditions, restrictions, limitations and exclusions shall include the conditions contained in subsection (d) of K.S.A. 75-6506, and amendments thereto. Each person who was formerly elected or appointed and qualified to an elective state office and who was covered immediately preceding the date such person ceased to hold such office by the provisions of group health insurance or a health maintenance organization plan under the law in effect prior to August 1, 1984, or the state health care benefits program in effect after that date, shall continue to be qualified to participate in the state health care benefits program and shall pay the cost of participation in the program as established and in accordance with the procedures prescribed by the commission if such person chooses to participate therein.

~~(d) The state health care benefits program established under this act shall be effective on and after August 1, 1984.~~

(d) The commission shall have no authority to assess charges for employer contributions under the student health care benefits component of the state health care benefits program for persons who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.

(e) Nothing in this act shall be construed to permit the Kansas state employees health care commission to discontinue the student health care benefits component of the state health care benefits program until the state board of regents has contracts in effect that provide student coverage pursuant to the authority granted therefor in K.S.A. 75-4101, and amendments thereto.

New Sec. 3. (a) As used in this section:

(1) "Federal poverty level" means the most recent poverty income guidelines published in the calendar year by the United States department of health and human services.

(2) "Program" means the low-income family postsecondary savings accounts incentive program established by this section.

(3) "Qualified individual or family" means an individual or family who resides within the state of Kansas and whose household income is not more than 200% of the federal poverty level at the time of application.

(4) "Participant" means a qualified individual or family who has been approved for participation in the program.

(5) "District" means a congressional district of the state of Kansas.

(6) Words and phrases have the meanings provided by K.S.A. 75-643, and amendments thereto, unless otherwise provided by this section.

(b) There is hereby established the low-income family postsecondary savings accounts incentive program. The purpose of the program is to encourage the establishment of family postsecondary savings accounts pursuant to K.S.A. 75-640, and amendments thereto, by qualified individuals and families.

(c) The treasurer shall:

(1) Implement and administer the program;

(2) develop marketing plans and promotional material for the program;

(3) prescribe the procedure for, and requirements relating to, the submission and approval of applications;

(4) do all things necessary and proper to carry out the purposes of this act; and

(5) adopt any rules and regulations and policies deemed necessary for implementation and administration of the program.

(d) Applications for participation in the program shall be submitted to the treasurer in the manner and form required by the treasurer. Applications shall be accompanied by any information deemed necessary by the treasurer.

(e) During fiscal year 2007, the treasurer may approve no more than 400 applications. Each fiscal year thereafter, the treasurer may approve up to 400 applications in addition to those approved in the previous fiscal year. In each fiscal year, the treasurer shall approve no more than 100 applications from residents of a single district. If 100 applications from residents of a district are not approved in any fiscal year, the treasurer may approve additional applications submitted by residents of the remaining districts. The treasurer shall provide written notice, to an applicant, of the approval or nonapproval of such person's application. No application shall be approved after June 30, 2009.

(f) The provisions of this subsection shall be subject to the limitations of appropriations. The amount of contributions made to an account by a participant who establishes a family postsecondary savings account pursuant to K.S.A. 75-640 et seq., and amendments thereto, shall be matched by the state on a dollar-for-dollar basis if the participant contributes at least \$100 in each calendar year in which the account is open. The aggregate of all matching amounts for any participant shall not exceed \$600 in any calendar year. No moneys shall be appropriated for the purpose of marketing or administering this program in an amount which exceeds \$50,000. No moneys shall be appropriated for the purpose of matching contributions after June 30, 2009.

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

(h) The treasurer shall ensure that all withdrawals of matching funds are used for qualified withdrawals under K.S.A. 75-640 et seq., and amendments thereto.

(i) On or before January 15, 2009, the treasurer shall prepare and submit to the governor and legislature a report on the program. Such report shall include the number of accounts opened under the program, the amount of moneys contributed to such accounts by participants, the amount of matching moneys transferred by the treasurer pursuant to subsection (g), the average income of the participants, an analysis of the success of the program in meeting the purpose of the program and any other information deemed appropriate by the treasurer.

(j) The provisions of this section shall be part of and supplemental to the Kansas postsecondary education savings program.

Sec. 4. K.S.A. 75-4101 and K.S.A. 2005 Supp. 75-6501 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.";

In the title, by striking all in line 12 and 13 and inserting “AN ACT concerning postsecondary education; relating to the state board of regents and postsecondary educational institutions; relating to the powers and duties thereof; relating to postsecondary savings programs; amending K.S.A. 75-4101 and K.S.A. 2005 Supp. 75-6501 and repealing the existing sections.”;

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

TOM SLOAN
EVERETT JOHNSON
SYDNEY CARLIN
Conferees on part of House

JEAN SCHODORF
JOHN VRATIL
JANIS K. LEE
Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 332**.

On roll call, the vote was: Yeas 21, Nays 19, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Apple, Barnett, Barone, Brownlee, Donovan, Gilstrap, Huelskamp, Jordan, Journey, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Taddiken, Wagle, Wilson.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote NO on **SB 332** and would like to explain my vote. Under current state law and due to U.S. Supreme Court decisions, medical necessity for abortion includes mental health. Two physicians can determine a late trimester abortion medically necessary, without any known abnormality of the baby. That is why hundreds of healthy babies are killed in the state of Kansas by late-term abortions. I vote no on **SB 332**. — JIM BARNETT

Senators Donovan, Journey, O'Connor, Palmer and Petersen request the record to show they concur with the “Explanation of Vote” offered by Senator Barnett on **SB 332**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 498**, submits the following report:

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

On page 1, in line 36, after the period by inserting “Neither the county commission nor the governing body of such city shall impose any restriction on the number of providers of such continuing education.”;

On page 2, by striking all in lines 27 through 43;

By striking all on pages 3 and 4;

On page 5, by striking all in lines 1 through 17;

By renumbering the remaining sections accordingly;

Also on page 5, in line 18, by striking all after “12-1526”; in line 19, by striking all before “hereby” and inserting “is”;

In the title, in line 15, by striking all after “and”; in line 16, by striking all before “repealing”; also in line 16, by striking “sections” and inserting “section”;

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

JENE VICKREY
STEVE HUEBERT
TOM SAWYER
Conferees on part of House

TIM HUELSKAMP
KAY O'CONNOR
DONALD BETTS, JR.
Conferees on part of Senate

Senator Huelskamp moved the Senate adopt the Conference Committee Report on **SB 498**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 512**, submits the following report:

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

On page 2, by striking all in lines 2 through 5;

And by re-lettering the remaining subsections accordingly;

Also on page 2, in lines 7, 11, 15, 18 and 21 by striking "board certified" and inserting "board-certified";

On page 3, in line 5, after "gastroenterologist" by inserting ", radiologist";

On page 6, by striking all in lines 30 through 35;

And by re-lettering the remaining subsections accordingly;

On page 7, in line 3, by striking "or mixed dust"; by striking all in lines 12 through 15;

And by re-lettering the remaining subsections accordingly;

Also on page 7, in line 26, by striking "for a cumulative period of at least five years";

On page 13, in line 13, after "impairment" by inserting a comma; in line 30, by striking all after "cancer"; in line 31, by striking all before "in";

On page 14, in line 29, after "or" by inserting "exposure to"; in line 37, by striking all after "(3)"; by striking all in lines 38 through 43;

On page 15, by striking all in lines 1 through 5 and inserting "To the extent otherwise permitted by state law, if an heir files a civil action that alleges a silica or asbestos claim based on wrongful death and further alleges in the action that the death was the result of living with an exposed person who, if the civil action had been filed by the exposed person, would have met the requirements specified in subparagraph (C) of paragraph (2) of subsection (g) of this section, and amendments thereto, and that the decedent lived with the exposed person specified in subsection (kk) of section 1, and amendments thereto, for silica claims, or with the exposed person during the time of the exposed person's exposure to asbestos for asbestos claims, the decedent is considered as having satisfied the requirements specified in subparagraph (C) of paragraph (2) of subsection (g) of this section and amendments thereto.";

On page 21, in line 43, by striking "mixed";

On page 22, in line 1, by striking "dust" and inserting "asbestos";

On page 24, in line 26, by striking "4" and inserting "5"; in line 36, by striking "3" and inserting "5";

On page 25, in line 20, by striking all after the stricken material; by striking all in line 21, in line 22, by striking all before "court" and inserting "any given claimed or alleged exposure was a substantial factor in causing the plaintiff's injury, loss or damages, the";

On page 28, in line 33, by striking "12" and inserting "11";

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

CLARK SHULTZ
ERIC CARTER
NILE DILLMORE
Conferees on part of House

RUTH TEICHMAN
KARIN BROWNLEE
CHRIS STEINEGER
Conferees on part of Senate

Senator Teichman moved the Senate adopt the Conference Committee Report on **SB 512**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

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

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

JIM MORRISON
PEGGY MAST
Conferees on part of House

JIM BARNETT
NICK JORDAN
Conferees on part of Senate

On motion of Senator Barnett, the Senate adopted the conference committee report on **SB 528**, and requested a new conference committee be appointed.

The President appointed Senators Barnett, Jordan and Haley as a second Conference Committee on the part of the Senate on **SB 528**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SCR 1618**, submits the following report:

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

On page 1, in line 26, after "1965", by inserting " , commonly known as the No Child Left Behind Act of 2001, "; in line 29, after "1965", by inserting " , commonly known as the No Child Left Behind Act of 2001, "; in line 35, after "1965", by inserting " , commonly known as the No Child Left Behind Act of 2001, "; in line 38, after "1965", by inserting " , commonly known as the No Child Left Behind Act of 2001, ";

On page 2, in line 5, after "1965," by inserting "commonly known as the No Child Left Behind Act of 2001, "; in line 12, after "1965", by inserting " , commonly known as the No Child Left Behind Act of 2001, ";

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

KATHE DECKER
DEENA HORST
SUE STORM
Conferees on part of House

JEAN SCHODORF
JOHN VRATIL
JANIS K. LEE
Conferees on part of Senate

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SCR 1618**.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The Conference Committee report was adopted.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Steineger as a member of the Conference Committee on **SCR 1624** to replace Senator Hensley.

CONFIRMATION OF APPOINTMENTS

In accordance with Senate Rule 56, the following appointments, submitted by the Governor and the Kansas Technology Enterprise Corporation to the senate for confirmation, were considered.

Senator D. Schmidt moved the following appointments be confirmed as recommended by the Standing Senate Committees:

By the Governor:

On the appointment to the:

Kansas Lottery Commission, Member:

Jeanine McKenna, term expires March 15, 2010.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The appointment was confirmed.

On the appointment to the:

Pooled Money Investment Board, Member:

John Cleland, term expires March 15, 2010.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The appointment was confirmed.

On the appointment to the:

Pooled Money Investment Board, Member:

John Lehman, term expires March 15, 2010.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The appointment was confirmed.

On the appointment to the:

State Banking Board, Member:

Mark Parman, term expires March 15, 2009.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The appointment was confirmed.

On the appointment to the:

State Banking Board, Member:

Jane Schnellbacher, term expires March 15, 2009.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The appointment was confirmed.

On the appointment to the:

State Banking Board, Member:

Joseph Smith, term expires March 15, 2009.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The appointment was confirmed.

By the Kansas Technology Enterprise Corporation:

On the appointment to the:

Kansas Bioscience Authority, Board Member:

Dr. Raymond W. Smilor, term expires March 15, 2010.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The appointment was confirmed.

REPORT ON ENROLLED BILLS

SB 375, SB 481, SB 485 reported correctly enrolled, properly signed and presented to the governor on May 2, 2006.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2573** be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2573," as follows:

"SENATE Substitute for HOUSE BILL No. 2573

By Committee on Assessment and Taxation

"AN ACT concerning income taxation; relating to checkoffs for breast cancer research and military emergency relief; deductions, qualified tuition programs; net operating loss; credits, adoption; reporting requirements; amending K.S.A. 74-50,132 and 79-32,202 and K.S.A. 2005 Supp. 79-32,117, 79-32,143, 79-32,153 and 79-32,160a and repealing the existing sections.";

and the substitute bill be passed.

Also, **Substitute for Substitute for HB 2689**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for Substitute for Substitute for HOUSE BILL No. 2689," as follows:

"SENATE Substitute for Substitute for Substitute for HOUSE BILL No. 2689

By Committee on Assessment and Taxation

"AN ACT concerning sales taxation; relating to authority for countywide retailers' sales tax in certain counties; city retailers' sales tax, class D cities; exemptions; amending K.S.A. 2005 Supp. 12-187, as amended by section 1 of 2006 House Bill No. 2698, 12-188, 12-189, as amended by section 2 of 2006 House Bill No. 2698, 12-192 and 79-3606, as amended by section 4 of 2006 Senate Bill No. 76 and repealing the existing sections.";

and the substitute bill be passed.

On motion of Senator D. Schmidt, the Senate recessed until 3:30 p.m.

AFTERNOON SESSION

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

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: **HB 2576, HB 2748.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2576**, 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 56, in line 16, preceding "On", by inserting "(1)"; preceding line 23, by inserting the following:

"(2) The provision of paragraph (1) requiring a mandatory minimum term of imprisonment of not less than 40 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to section 1, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 480 months. In such case, the defendant is required to

serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.”;

Also on page 56, following “(a)(2)”, by inserting “or subsection (b)(2)”;

On page 57, after line 29, by inserting:

“New Sec. 4. (a) The department of corrections shall be required to review and report on the following serious offenses committed by sex offenders, as defined by K.S.A. 22-4902, and amendments thereto, while such offenders are in the custody of the secretary of corrections:

- (1) Murder in the first degree, as provided in K.S.A. 21-3401, and amendments thereto;
- (2) murder in the second degree, as provided in K.S.A. 21-3402, and amendments thereto;
- (3) capital murder, as provided in K.S.A. 21-3439, and amendments thereto;
- (4) rape, as provided in K.S.A. 21-3502, and amendments thereto;
- (5) aggravated criminal sodomy, as provided in K.S.A. 21-3506, and amendments thereto;
- (6) sexual exploitation of a child, as provided in K.S.A. 21-3516, and amendments thereto;
- (7) kidnapping as provided in K.S.A. 21-3420, and amendments thereto,
- (8) aggravated kidnapping, as provided in K.S.A. 21-3421, and amendments thereto;
- (9) criminal restraint, as provided in K.S.A. 21-3424, and amendments thereto;
- (10) indecent solicitation of a child, as provided in K.S.A. 21-3510, and amendments thereto;
- (11) aggravated indecent solicitation of a child, as provided in K.S.A. 21-3511, and amendments thereto;
- (12) indecent liberties with a child, as provided in K.S.A. 21-3503, and amendments thereto;
- (13) aggravated indecent liberties with a child, as provided in K.S.A. 21-3504, and amendments thereto;
- (14) criminal sodomy, as provided in K.S.A. 21-3505, and amendments thereto;
- (15) aggravated child abuse, as provided in K.S.A. 21-3609, and amendments thereto;
- (16) aggravated robbery, as provided in K.S.A. 21-3427, and amendments thereto;
- (17) burglary, as provided in K.S.A. 21-3715, and amendments thereto;
- (18) aggravated burglary, as provided in K.S.A. 21-3716, and amendments thereto;
- (19) theft, as provided in K.S.A. 21-3701, and amendments thereto;
- (20) vehicular homicide, as provided in K.S.A. 21-3405, and amendments thereto;
- (21) involuntary manslaughter while driving under the influence, as provided in K.S.A. 21-3442, and amendments thereto; or
- (22) stalking, as provided in K.S.A. 21-3438, and amendments thereto.

(b) The secretary of corrections shall submit such report to the speaker of the house of representatives and the president of the senate annually, beginning January 1, 2007.

New Sec. 5. (a) The department of corrections shall be required to identify, assess and monitor high-risk sex offenders in the custody of the secretary of corrections.

(b) The department is directed to develop a graduated risk assessment that identifies, assesses and closely monitors a high-risk sex offender who is placed on postrelease supervision.

New Sec. 6. The Kansas board of education shall appoint a task force to study the feasibility of requiring all Kansas school districts to adopt district policies mandating all schools conduct a check of the internet site maintained by the Kansas bureau of investigation concerning registered offenders prior to permitting any unescorted, noninstructional personnel, including but not limited to, any vendor or entity under contract with the school board, to be on school grounds while students are present. The task force’s study shall be completed and the task force shall submit a report containing its findings and recommendations to the Kansas board of education, the speaker of the house of representatives and the president of the senate on or before January 1, 2007.

New Sec. 7. (a) Electronic solicitation is, by means of communication conducted through the telephone, internet, or by other electronic means:

(1) Enticing or soliciting a person whom the offender believes to be a child under the age of 16 to commit or submit to an unlawful sexual act; or

(2) enticing or soliciting a person whom the offender believes to be a child under the age of 14 to commit or submit to an unlawful sexual act.

(b) Electronic solicitation as described in subsection (a)(1) is a severity level 3 person felony. Electronic solicitation as described in subsection (a)(2) is a severity level 1 person felony.

(c) For the purposes of this section, "communication conducted through the internet or by other electronic means" includes but is not limited to e-mail, chatroom chats and text messaging.

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

And by renumbering the remaining sections accordingly;

On page 62, by striking lines 42 through 43;

On page 63, by striking lines 1 through 17 and by inserting the following:

"Sec. 15. K.S.A. 2005 Supp. 21-4638 is hereby amended to read as follows: 21-4638.

When it is provided by law that a person shall be sentenced pursuant to this section, such person shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. Except as otherwise provided, in addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving 40 years' imprisonment, and such 40 years' imprisonment shall not be reduced by the application of good time credits. For crimes committed on and after July 1, 1999, a person sentenced pursuant to this section shall not be eligible for parole prior to serving 50 years' imprisonment, and such 50 years' imprisonment shall not be reduced by the application of good time credits. *For crimes committed on or after July 1, 2006, a mandatory minimum term of imprisonment of 50 years shall not apply if the court finds that the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 600 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.* Upon sentencing a defendant pursuant to this section, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced pursuant to K.S.A. 21-4638 and amendments thereto.

Sec. 16. K.S.A. 2005 Supp. 21-4704, as amended by section 4 of 2006 Senate Bill No. 408, is hereby amended to read as follows: 21-4704. (a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

SENTENCING RANGE - NONDRUG OFFENSES

Category Severity Level	A 3+ Person Felonies	B 2 Person Felonies	C 1 Person & 1 Nonperson Felonies	D 1 Person Felony	E 3+ Nonperson Felonies	F 2 Nonperson Felonies	G 1 Nonperson Felony	H 2+ Misdemeanors	I 1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	166 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 30
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	28 26 24	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND
Presumptive Probation
Presumptive Fine
Presumptive Imprisonment

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer or K.S.A. 21-3415, and amendments thereto, aggravated battery against a law enforcement officer and amendments thereto which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered a departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall be as provided by the specific mandatory

sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-4707, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-3710, and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (ii) at the time of the conviction under paragraph (A) (i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government; or (B) (i) has been convicted of rape, K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the conviction under paragraph (B) (i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in paragraph (2) (B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, or any substantially similar offense from another jurisdiction.

(l) The sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment.

(m) *The sentence for a violation of K.S.A. 22-4903 or subsection (d) of K.S.A. 21-3812, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence upon making the following findings on the record:*

(1) *An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism, such program is available and the offender can be admitted to such program within a reasonable period of time; or*

(2) *the nonprison sanction will serve community safety interests by promoting offender reformation.*

Any decision made by the court regarding the imposition of an optional nonprison sentence pursuant to this section shall not be considered a departure and shall not be subject to appeal.

Sec. 17. K.S.A. 2005 Supp. 21-4706, as amended by section 8 of 2006 Senate Bill No. 25, is hereby amended to read as follows: 21-4706. (a) For crimes committed on or after July 1, 1993, the sentences of imprisonment shall represent the time a person shall actually serve, subject to a reduction of up to 15% of the primary sentence for good time as authorized by law.

(b) The sentencing court shall pronounce sentence in all felony cases.

(c) Violations of K.S.A. 21-3401, 21-3439 and 21-3801 and amendments thereto and sections 1 and 2 of 2006 Senate Bill No. 25, and amendments thereto, are off-grid crimes for the purpose of sentencing. Except as otherwise provided by K.S.A. 21-4622 through 21-4627, and 21-4629 through 21-4631, and amendments thereto, the sentence shall be imprisonment for life and shall not be subject to statutory provisions for suspended sentence, community service or probation.

(d) *As identified in K.S.A. 21-3502, 21-3404, 21-3506, 21-3513 and 21-3516 and K.S.A. 2005 Supp. 21-3447, and amendments thereto, if the offender is 18 years of age or older and the victim is under 14 years of age, such violations are off-grid crimes for the purposes of sentencing. Except as provided in section 1, and amendments thereto, the sentence shall be imprisonment for life pursuant to section 2, and amendments thereto.*

Sec. 18. K.S.A. 22-3436 is hereby amended to read as follows: 22-3436. ~~On and after July 1, 1991,~~ If a defendant is charged with a crime pursuant to article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(a) The prosecuting attorney, as defined in K.S.A. 22-2202, and amendments thereto, shall: (1) inform the victim or the victim's family; ~~(a)~~ before any dismissal or declining of prosecuting charges; ~~and (b)~~ (2) inform the victim or the victim's family of the nature of any proposed plea agreement; and (3) inform and give notice to the victim or the victim's family of the rights established in subsection (b);

(b) *The victim of a crime or the victim's family have the right to be present at any hearing where a plea agreement is reviewed or accepted and the parties may submit written arguments to the court prior to the date of the hearing.*;

And by renumbering the remaining sections accordingly;

On page 66, after line 1, by inserting the following:

“(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.”;

On page 73, in line 10, following the period, by inserting “Any violation of any provision of such act, including a violation of the duties set forth in K.S.A. 22-4904 through K.S.A. 22-4907, and amendments thereto, which continues for more than 30 consecutive days shall, upon the 31st consecutive day, constitute a new and separate offense and shall continue to constitute a new and separate offense upon completion of every 30 days thereafter for as long as the offense continues.”;

On page 75, by striking all in line 43;

By striking all on pages 76 and 77;

On page 78, by striking all in lines 1 through 5;

And by renumbering the remaining sections accordingly;

Also on page 78, in line 20, by striking “19” and inserting “25”; also in line 20, by striking “38” and inserting “44”;

On page 81, in line 20, by striking “21” and inserting “27”;

On page 86, in line 22, by striking “19” and inserting “25”;

On page 87, in line 36, by striking “may”; in line 37, by striking “also” and inserting “shall”; in line 38, following the period by inserting “If the person does not enter into and complete a treatment program for domestic violence, the person shall serve not less than 180 days nor more than one year's imprisonment.”;

On page 88, in line 35, by striking “once during the person's lifetime” and inserting “twice during any three-year period”; after line 35, by inserting:

“New Sec. 47. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.”;

By renumbering the remaining sections accordingly;

Also on page 88, in line 36, preceding “and” by inserting “, 22-3436”; in line 38, by striking “21-4706” and inserting “21-4638”; also in line 38, by striking “, 74-9501”; also in line 38, preceding “are” by inserting “and K.S.A. 2005 Supp. 21-4704, as amended by section 4 of 2006 Senate Bill No. 408 and 21-4706, as amended by section 8 of 2006 Senate Bill No. 25”;

In the title, in line 18, by striking “for certain sex offenses”; in line 22, preceding “Kansas” by inserting “board of education, department of corrections and the”; also in line 22, by striking all following “commission”; in line 23, by striking all preceding the semicolon; in line 24, following “battery” by inserting “; electronic solicitation”; in line 29, following “21-3812” by inserting “, 22-3436”; in line 30, by striking all following “21-3516,”; in line 31, by striking “4706” and inserting “21-4638”; also in line 31, by striking “, 74-9501”; also in line 31, following “75-52,129”, by inserting “and K.S.A. 2005 Supp. 21-4704, as amended by section 4 of 2006 Senate Bill No. 408 and 21-4706, as amended by section 8 of 2006 Senate Bill No. 25”;

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
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2576**.

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

On roll call on **HB 2576**, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Betts, Emler, Francisco, Haley, Lee, McGinn, Reitz.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I am both pleased and saddened today to vote for **HB 2576**, Jessica's Law. I am pleased that this state will finally have a punishment on the books fitting for those who would prey on our most innocent Kansans. I am saddened, that it has taken so long to make these changes. As the name implies, this legislation is named after one innocent victim. There have been many others. Mr. President, today we change Kansas from a state that attracts predators, to one that sends a clear message. A message that Kansans will protect their own. That there will be a severe penalty for anyone who would victimize a child in Kansas. This will prevent future victims like Jessica.—JIM BARNETT

Senators Huelskamp, Journey, O'Connor and Petersen request the record to show they concur with the “Explanation of Vote” offered by Senator Barnett on **HB 2576**.

MR. PRESIDENT: I am a proponent for the sentencing of aggravated habitual sex offenders. I am also a proponent of freeing up bed space that is currently occupied by non-violent, non-person offenses who were sentenced under the old sentencing guidelines. This will free up bed space leaving these beds for the most violent. I am an opponent of the second part of this bill, PRIVATE PRISONS. Private prisons must stand alone from any other measure.

A number of ethical questions arise when private corporations profit from depriving human beings of their liberty. A natural concern is that the very nature of the arrangement invites these companies to prioritize their profits over the needs of those in their custody. No matter how credible the reputation, there are numerous examples of private prison corporations cutting corners in order to maximize their earnings, primarily through cutting back on staff pay, training and inmate programming. These actions lead to unrest among inmates, understaffing of facilities, and a prison staff that is unprepared to handle potentially dangerous situations. Who's child or grandchild will be the victim of a sex offender escapee? This combination of factors is a threat to the safety of inmates, staff, and Kansans alike.—DONALD BETTS JR.

Senator Haley requests the record to show he concurs with the "Explanation of Vote" offered by Senator Betts on **HB 2576**.

MR. PRESIDENT: I do support and have supported the provisions of **HB 2576** regarding sexual predators. I cannot and will not support the provisions for private prisons.—JAY SCOTT EMLER

Senators Lee, McGinn and Reitz request the record to show they concur with the "Explanation of Vote" offered by Senator Emler on **HB 2576**.

MR. PRESIDENT: For the third time *this* Session, I vote "No" on **HB 2576**.

This measure is obviously designed to inflate our prison-bed space population beyond reason...or imaginable afford ability.

What conscientious legislator does not want to be tough on sex predators? Certainly, not me. David Haley's record of rooting out and punishing predators of *all* degrees is clear during my last dozen years in the Kansas legislature...

But this bill (**HB 2576**) is, as we know, only **SB 334** with a vicious twist. Since we cannot bed all of the inmates this bill will create, let's contract out to private prisons.

As a *sane* fiscal conservative, I will not allow my principles to be compromised for the flagrant "crime-du-jour"; sex predators, creating a "stacking" effect we can't afford. I am not fooled. Hardly content with the performance of our State Department of Corrections, it is too devious, no too diabolical, to abdicate foolishly and knowingly the responsibility of our state to incarcerate and to reform to the more expensive and less responsible privately managed facilities.—DAVID HALEY

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2748**, 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 amendments, as follows:

On page 1, in line 20, by striking "serious bodily injury" and inserting "great bodily harm"; in line 31, by striking "Serious bodily injury" and inserting "Great bodily harm";

On page 2, in line 5, by striking "serious bodily injury" and inserting "great bodily harm"; in line 24, by striking "Serious bodily injury" and inserting "Great bodily harm"; by striking all in lines 28 through 30;

On page 3, in line 8, by striking all after "shall"; by striking all in lines 9 and 10; in line 11, by striking all before the period and inserting "issue a warning citation to anyone violating subsection (a)(3)"; after line 11, by inserting the following:

"Sec. 4. K.S.A. 2005 Supp. 8-1,146 is hereby amended to read as follows: 8-1,146. (a) Any owner or lessee of one or more passenger vehicles, trucks of a gross weight of 20,000 pounds or less ~~or~~, motorcycles *or travel trailers*, who is a resident of the state of Kansas, and who submits satisfactory proof to the director of vehicles, in accordance with rules and regulations adopted by the secretary of revenue, that such person has proof of having served and is designated as a veteran, and has had an honorable discharge from the United States army, navy, air force, marine corps, coast guard or merchant marines, upon compliance with the provisions of this section, may be issued one distinctive license plate for each such passenger vehicle, truck ~~or~~, motorcycle *or travel trailer* designating such person as an United States military veteran. Such license plates shall be issued for the same period of time as

other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto.

On and after January 1, 2005, any person issued a license plate under this section may request a decal for each license plate indicating the appropriate military branch in which the person served.

(b) Any person who is a veteran of the United States army, navy, air force, marine corps, coast guard or merchant marines may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the distinctive license plates shall furnish the director with proof as the director shall require that the applicant is a veteran of the United States army, navy, air force, marine corps, coast guard or merchant marines. Application for the registration of a passenger vehicle, truck or motorcycle or travel trailer and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(c) No registration or distinctive license plates issued under the authority of this section shall be transferable to any other person.

(d) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant has filed with the director a form as provided in subsection (b). If such form is not filed, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the distinctive license plates to the county treasurer of such person's residence.

(e) A fee of \$2 shall be paid for each decal issued under subsection (a). The director of vehicles shall design such decals. Such decals shall be affixed to the license plate in the location required by the director.;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 12, after "Supp." by inserting "8-1,146 and";

In the title, in line 12, after "concerning" by inserting "motor vehicles; relating to license plates; concerning"; in line 14, after "Supp." by inserting "8-1,146 and";

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 2748**.

On roll call, the vote was: Yeas 38, Nays 2, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Haley, Huelskamp.

The Conference Committee report was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1852—

A RESOLUTION congratulating and commending the Olathe North Senior High School boys track team and Coach Hart.

WHEREAS, The Olathe North Senior High School boys track team is the 2005 Kansas State High School Activities Association class 6A champion. The team gained its championship status by competing at the state meet which was held at Cessna Field on the Wichita State University campus this past May; and

WHEREAS, Although the championship was the result of the participation of all team members, significant contributions were made by Alex Jones, who was a member of the first place 4 by 100 relay and placed first in the long jump, and was named to the All-Metro squad; Derrick Mims, who was a member of the first place 4 by 100 relay and placed first in the 110 high hurdles, and was named to the All-Metro squad and as the All-Metro Track Athlete of the Year; Randy Sheperd, who was a member of the 4 by 100 relay, placed second in the 100 meter dash and first in the 200 meter dash, and was named to the All-Metro squad; and Brandon Tarr, who was a member of the first place 4 by 100 relay and was named to the All-Metro squad; and

WHEREAS, Brent Sensenich, who had a graduating grade point average of 4.43, was nominated as the team's representative for the Kansas City Star's Scholar-Athlete; 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 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 North Senior High School boys track team and Coach Hart upon being the 2005 Kansas State High School Activities Association class 6A champion and wish them continued success; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Ms. Theresa Davidson, Principal, Olathe North Senior High School, 600 E. Prairie, Olathe, KS 66061-3397.

On emergency motion of Senator Brownlee **SR 1852** was adopted unanimously.

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

SENATE RESOLUTION No. 1853—

A RESOLUTION congratulating and commending Haley Craig.

WHEREAS, Haley Craig, a student at Olathe South Senior High School, is the 2005 Kansas State High School Activities Association class 6A girls singles tennis champion; and

WHEREAS, Ms. Craig had an undefeated record of 26 wins and zero losses during the season. She won the Sunflower League title, the regional title and the state title, and became the first girl tennis champion from Olathe high schools; and

WHEREAS, Ms. Craig has received statewide recognition for her fine sportsmanship and athletic abilities; and

WHEREAS, Her success was due to her strong competitive spirit and determination to win. She also had the enthusiastic support of other team members: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That Haley Craig be congratulated and commended for winning the 2005 Kansas State High School Activities Association class 6A girls singles tennis championship; 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 1853** was adopted unanimously.

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

SENATE RESOLUTION No. 1854—

A RESOLUTION congratulating and commending Don Wistuba.

WHEREAS, Don Wistuba, the operator of the statehouse snack bars, will complete 30 years of service to hungry patrons in May of this year. He operates the first floor snack bar throughout the year and a second snack bar when the legislature is in session. Business is good when the legislature is in town, and his work day starts about 6 a.m. and normally ends

about 6 p.m. but may extend into the early morning hours when the legislature stays late to debate bills. Business drops off drastically when the legislature is not in session; and

WHEREAS, Don has been blind since birth. Originally from Kansas City, he attended the Kansas School for the Blind—now the Kansas State School for the Visually Handicapped. He learned of the program for blind snack bars while in school. After working in a small facility at the old state office building at 801 Harrison Street for more than a year, he commenced his present business; and

WHEREAS, Don is an independent businessman. He owns the inventory which he sells. He identifies his inventory with Braille name tags, and needless to say, his suppliers need to be very careful when stocking inventory. He uses a bill reader to identify the denomination of paper bills and uses a Japanese abacus for making calculations. A lot of his business transactions are made with his trust that his customers will take the item they say they are taking and place the proper change on the counter. Don runs a very clean facility, and it is very common to see him cleaning the counters and the sinks of his business. Don operates under the Federal Business Enterprise Program which is supervised by the Division of Services for the Blind and Visually Impaired of the Kansas Department of Social and Rehabilitation Services; and

WHEREAS, Don lives a few blocks from the statehouse and walks to work using a cane to help him find his way. He must be very familiar with the statehouse as he walks confidently throughout the building without a cane as he goes from the snack bars on the first and third floors of the building; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Don Wistuba as he nears the completion of 30 years operation of the statehouse snack bars and marvel at his fortitude as he goes about his life; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Mr. Don Wistuba.

On emergency motion of Senator Haley **SR 1854** was adopted unanimously.

Guests in the chamber for the resolution were Don Wistuba, Judy Wistuba, Mike Hayden, Deb Brummer, Michael Byington and Carolyn Green.

Mr. President and Colleagues of the Kansas Senate:

From time to time, it has been my distinct privilege to offer, for your consideration, Resolutions that speak to those who have been trailblazers in our beloved Capitol. You might recall Tributes you have allowed which have included the likes of former Senators McClinton and Gooch and Feleciano and my father, George Haley...as well as others. Through it all Mr. President, it is with a deep abiding respect that I hold for this hallowed building, and due its ever changing occupants, and for our State, composed of our diverse and committed people. We have held reverence to the legacies which have come before us...even as we recognize that in the annals of Time we too are but temporary travelers *through* these posts we are honored for but a brief moment to hold as stewards for our constituencies. We are heir to a storied History...and this Senator, David Haley, loves History...

Today, Mr. President, I am personally elevated to offer for each of your consideration **SR 1854** which, with your consent and approval, seeks to congratulate and commend a truly extraordinary Kansan. Unlike many previous recipients bestowed Senate recognition, Don Wistuba is today *yet* an active member of our busy and sometimes dysfunctional Capitol family!

I first met Don when I was a freshman Representative twelve years ago. His calm, unflappable demeanor, even in the midst of seemingly obvious chaos, was an inspiration to me! He brings this air of attention to duty and to detail and to order which I learned from then...and in the face of shifting allegiances and unsteady coalitions have drawn comfort and solace from to this day. In our conversations, intensely inquisitive or mater-of-fact banter, I discovered that Don had graduated from our State School for the Blind—now the Visually Handicapped—which was in my House and now my Senate District in Wyandotte County. And his only political lobby on any issue that I recall was to insure support for funding increases for his alma mater! His tone of voice would always get so serious, even stern, then!

In the legacies of this Capitol, in the lore that has and will be told, there will always be room for the very wonder that is the craft and the perseverance of this man. He has his stories of various personnel; those he has met and he has heard about. If ever there is a man who I have known who has judged each of us by the very content of our everyday character, it would have to be Don. It is a sad footnote that in our haste, many of us have not known of his tie to this process and its people, or in some even sadder exceptions, not even known his name. Take it from me, if you haven't noticed, Don knows his way around here! Mr. Wistuba was here in this great building before the vast majority of us arrived and, still a relatively young man, might very well remain in this beloved Capitol well after we have all departed from our service here. I, for one, am proud of him and to have served during his tenure. Please Mr. President and Fellow Members, join me in congratulating and saluting Don Wistuba on his three continuous decades of service this year to this August institution and on achieving the ripe and timely age of fifty (50) years *today!* — David Haley

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

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

In support of this motion:

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

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

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

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

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

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

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

HB 2792 would permit parents or guardians to pursue civil remedies against individuals, including the abortionist and clinic staff, who intentionally undermine parental involvement and violate the teen's legal rights. A similar law was passed in Missouri in 2005 and has passed the first court challenge. At the national level, an act to prevent children from being taken across state lines for secret abortions has passed the House and awaits Senate action.

HB 2792 would exempt parents or guardians of a minor from paying for medical treatment caused by an abortion if they had no knowledge or notification of the minor's abortion. Oklahoma passed a similar law in 2001, ordering the abortionist to pay for abortion-caused

medical treatment if they violate the parental involvement provision. (A legal challenge in the 10th Circuit, that which governs Kansas, was rebuffed.)

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

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

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

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

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

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

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Wednesday, May 3, 2006.

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

PAT SAVILLE, *Secretary of the Senate.*

