

Journal of the Senate

SIXTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, May 25, 2006—10:00 a.m.

As provided by **SCR 1626**, the Sine Die Session of the regular 2006 Kansas Senate was called to order by President Morris.

The roll was called with thirty-six senators present.

Senators Allen, Goodwin, Kelly and Steineger were excused.

President Morris introduced as guest chaplain, Senator Nick Jordan, who delivered the invocation:

Senator Jordan noted: “One of my favorite scriptures is I Kings 3:7-12. In it King Solomon prayed in humility, recognizing his awesome responsibility for an understanding heart to judge properly and discern between good and evil. God was pleased because he didn’t ask for long life, riches or the life of his enemies, so God gave him a wise and discerning heart that there would never be anyone like Solomon.”

Father we come before you today with humble hearts understanding the responsibility you have put before us. May we have the understanding to judge properly between good and evil; right and wrong.

As we end this session may Senators, staff and their families be refreshed and renewed. May you set within us a vision for Kansas, give us wisdom as we think about our challenges. You have blessed us with a great State and great citizens. May we remember that we are here to serve, not for power, but to empower our citizens to be successful.

Lord, your word says that there is wisdom in the abundance of counselors. Let the Senate be a place that seeks that wisdom through listening to each other, respecting each other and working together for the good of all.

May your blessing be upon our State and may we be a blessing to you.

In Christ’s name. Amen.

CHANGE OF CONFERENCE

The President announced the appointment of Senators Vratil, Bruce and Goodwin as members of the Conference Committee on **HB 2529** to replace Senators Brungardt, Vratil and Hensley.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1862—

A RESOLUTION congratulating and commending Brian Moorman.

WHEREAS, Brian Moorman, a native of Sedgwick and a member of the Buffalo Bills professional football team, is the 2005 recipient of the Pro Football Weekly Arthur S. Arkush Humanitarian Award, an award given annually to a National Football Association player whose contributions to the community and charitable organizations are especially outstanding; and

WHEREAS, Mr. Moorman generously supports the many organizations and agencies connected with the team and gives selflessly of his time. He has established the PUNT Foundation, whose mission is to support pediatric cancer research, treatment and social programs. He hosts two major events each year, the Turf Jam Celebrity Karaoke event and Carly's Club's Halloween Party, and enlists fellow team members to join in the cause. He has been a spokesman for the team's reading program, helps with habitat for humanity and regularly helps serve the annual Thanksgiving dinner at the Buffalo city mission. He donates money for his foundation through the Dunlop Tires Kicking for a Cure for every punt he places within the opponent's 20-yard line; and

WHEREAS, Mr. Moorman graduated from Sedgwick High School where he was All-State in eight-man football and won three state championships in track. He attended Pittsburg State University on a track scholarship but walked on the football team and became the team punter. He was a four-time All-American punter and won 12 All-American honors in indoor and outdoor track. He was named the MIAA Ken B. Jones Student-Athlete of the Year for two consecutive years and was inducted into the NCAA Division II Track and Field Hall of Fame in 2006. Additionally, he won GTE Academic All-American Honors seven times during his college career; and

WHEREAS, Originally drafted by the Seattle Seahawks, Mr. Moorman was in their training camp for two years and then played in NFL Europe for two years for the Berlin Thunder. He led the European league for two years in punting and helped his team win the NFL league championship. He then joined the Buffalo Bills as a free agent as the team kicker. He was an alternate to the Pro Bowl in 2002 and 2003 and played in his first pro bowl in 2005 after being selected to receive All-Pro honors for his kicking; and

WHEREAS, Mr. Moorman has been married to his wife Amber for five years: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Brian Moorman upon the honors he has received in professional football and for the humanitarian services he provides for needy persons.

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

Brian Moorman was introduced and senators and guests joined Senator McGinn in honoring him with a standing ovation. Accompanying him were his wife, Amber, and their parents, Larry and Jean Moorman and Gene and Shirley Cunningham.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **Senate Substitute for HB 2968**.

Also, adoption of **SCR 1626**.

MESSAGE FROM THE HOUSE

Announcing rejection of **Substitute SB 358; SB 359, SB 384, SB 444, SB 465; House Substitute for SB 513; SB 564, SB 588, SB 601**.

Also, rejection of **SCR 1621**.

The House announces the appointment of Representatives O'Neal, Kinzer and Pauls to replace Representatives Neufeld, Landwehr and Feuerborn as third conferees on **HB 2529**.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Haley as a member of the Conference Committee on **HB 2529** to replace Senator Goodwin.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee reports on **HB 2529**.

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 2529**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2529**, 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, by striking all in lines 17 through 43; by striking all on pages 2 through 7, on page 8, by striking all in lines 1 through 21 and by inserting the following:

"Section 1. K.S.A. 2005 Supp. 21-4619, as amended by Section 11 of 2006 House Substitute for Senate Bill No. 337, is hereby amended to read as follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

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

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

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

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

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

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

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

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

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

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

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in the first degree as defined in K.S.A. 21-3401, and amendments thereto; (14) murder in the second degree as defined in K.S.A. 21-3402, and amendments thereto; (15) voluntary manslaughter as defined in K.S.A. 21-3403, and amendments thereto; (16) involuntary manslaughter as defined in K.S.A. 21-3404, and amendments thereto; (17) involuntary manslaughter while driving under the influence of alcohol or drugs as defined in K.S.A. 2005 Supp. 21-3442, and amendments thereto; (18) sexual battery as defined in K.S.A. 21-3517, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed; (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amendments thereto; or (20) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

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

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

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

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

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

(6) the identity of the convicting court, arresting law enforcement authority or diverting authority. All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The person whose record was expunged;

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

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

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

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

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

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

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

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

(10) the Kansas sentencing commission;

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

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

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

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

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

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

Sec. 2. K.S.A. 2005 Supp. 28-172a, as amended by section 14 of 2006 House Substitute for Senate Bill No. 337, is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

(1) On and after July 1, 2006 through June 30, 2010:

Murder or manslaughter.....	\$166.50	\$172.50
Other felony.....	157.00	163.00
Misdemeanor.....	122.00	128.00
Forfeited recognizance.....		64.50
Appeals from other courts.....		64.50
(2) On and after July 1, 2010:		
Murder or manslaughter.....	\$164.50	\$170.50
Other felony.....	155.00	161.00
Misdemeanor.....	120.00	126.00
Forfeited recognizance.....		62.50
Appeals from other courts.....		62.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of K.S.A. 8-2118, and amendments thereto), a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2006 through June 30, 2010, a docket fee of ~~\$60~~ \$66 shall be charged, and on and after July 1, 2010, a docket fee of ~~\$58~~ \$64 shall be charged. When an action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by mail or in person, on and after July 1, 2006 through June 30, 2010, the docket fee to be paid as court costs shall be ~~\$60~~ \$66, and after July 1, 2010, the docket fee to be paid as court costs shall be ~~\$58~~ \$64.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2006 through June 30, 2010, a docket fee of ~~\$60~~ \$66 shall be charged, and on and after July 1, 2010, a docket fee of ~~\$58~~ \$64 shall be charged. When an action is disposed of under subsection (a) and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or in person, on and after July 1, 2006 through June 30, 2010, the docket fee to be paid as court costs shall be ~~\$60~~ \$66, and on and after July 1, 2010, the docket fee to be paid as court costs shall be ~~\$58~~ \$64.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The

judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

Sec. 3. K.S.A. 2005 Supp. 21-4619, as amended by section 11 of 2006 House Substitute for Senate Bill No. 337, 21-4619, as amended by section 5 of 2006 House Bill No. 2122, 28-172a, as amended by section 14 of 2006 House Substitute for Senate Bill No. 337 and 28-172a, as amended by section 3 of 2006 House bill No. 2122 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 10, by striking all following “ACT”; by striking all in lines 11 through 13; in line 14, by striking all before the period and inserting “reconciling amendments to certain statutes; amending K.S.A. 2005 Supp. 21-4619, as amended by section 11 of 2006 House Substitute for Senate Bill No. 337 and 28-172a, as amended by section 14 of 2006 House Substitute for Senate Bill No. 337 and repealing the existing sections; also repealing K.S.A. 2005 Supp. 21-4619, as amended by section 5 of 2006 House Bill No. 2122 and 28-172a, as amended by section 3 of 2006 House Bill No. 2122”;

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

JOHN VRATIL
TERRY BRUCE
DAVID HALEY
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 2529**.

On roll call, the vote was: Yeas 26, Nays 9, Present and Passing 0, Absent or Not Voting 5.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Emler, Francisco, Gilstrap, Haley, Hensley, Jordan, Lee, McGinn, Morris, Petersen, Pine, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

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

Absent or Not Voting: Allen, Goodwin, Kelly, Reitz, Steineger.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2809**, submits the following report:

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

On page 1, by striking all in lines 19 through 43;

By striking all on pages 2 through 16 and inserting the following:

“Section 1. The high density at-risk pupil weighting of each school district shall be determined by the state board as follows:

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

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

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

(d) If the district has an enrollment of at least 35.1% at-risk pupils and an enrollment density of at least 212.1 pupils per square mile, the state board shall multiply the number of at-risk pupils by .08 in school year 2006-2007, by .09 in school year 2007-2008 and by .10 in school year 2008-2009 and each school year thereafter. The product is the high density at-risk pupil weighting of the district.

Sec. 2. Section 5 of 2006 Senate Bill No. 549 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.”;

On page 1, in the title, by striking all in lines 12 through 16 and inserting “AN ACT concerning school districts; relating to school finance; repealing Section 5 of 2006 Senate Bill No. 549.”;

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

JEAN SCHODORF

JOHN VRATIL

JANIS K. LEE

Conferees on part of Senate

KATHE DECKER

GARY K. HAYZLETT

MARTI CROW

Conferees on part of House

Senator Schodorf moved the Senate adopt the Conference Committee Report on **HB 2809**.

On roll call, the vote was: Yeas 32, Nays 2, Present and Passing 2, Absent or Not Voting 4.

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

Nays: Huelskamp, Pyle.

Present and Passing: O'Connor, Wysong.

Absent or Not Voting: Allen, Goodwin, Kelly, Steineger.

The Conference Committee report was adopted

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **HB 2809**.

REPORT ON ENGROSSED BILLS

SB 142, SB 549 reported correctly re-engrossed May 11, 2006.

H Sub SB 180, H Sub SB 303, H Sub SB 431 reported correctly engrossed May 12, 2006.

Also **SB 62, SB 297, SB 379** correctly re-engrossed May 12, 2006.

REPORT ON ENROLLED BILLS

Sub SB 323; H Sub SB 337; SB 365, SB 366; H Sub SB 435; SB 503 reported correctly enrolled, properly signed and presented to the Governor on May 12, 2006.

SB 55, SB 142, SB 324, SB 404, SB 432, SB 506, SB 549 reported correctly enrolled, properly signed and presented to the Governor on May 15, 2006.

SCR 1616 reported correctly enrolled, properly signed and presented to the Secretary of State on May 15, 2006.

SB 62; H Sub SB 180; SB 297; H Sub SB 303; SB 379; H Sub SB 431 reported correctly enrolled, properly signed and presented to the Governor on May 16, 2006.

MESSAGE FROM THE GOVERNOR

H Sub SB 51; Sub SB 486 approved May 15, 2006.

SB 164, SB 498 approved May 17, 2006.

H Sub SB 52; Sub SB 323; SB 332, H Sub SB 435 approved May 18, 2006.

SB 512; H Sub SB 337; SB 366, SB 549 approved May 19, 2006.

Signing Message for **SB 549**:

When I first started meeting with legislative leaders in January, I proposed the goal of developing a three-year plan that made a good faith effort to follow the guidelines of the legislative cost study, a plan which all four leaders would vote for, and I would sign. On the 92nd day of the session, that vision became a reality.

We all agreed we needed a plan that helped every school in Kansas, focused on children in poverty, and helped close the achievement gap.

It took some late nights, some frank conversations, and a little bit of prodding from back home, but we've now seen legislators make a real commitment to our schools, and to our state's long-term prosperity.

While I'm disappointed this plan doesn't give local communities the ability to enhance their schools to the degree I would have liked, or focus enough attention on closing the achievement gap through all-day kindergarten, I do think it's a step forward. I'll continue to work on those initiatives that are missing from this plan, because they remain priorities for me, as well as for Kansas parents and business leaders.

I have signed SB 549 because stronger schools lead to a well-educated workforce, which is what business leaders have told us time and again creates good jobs in Kansas. This is a great step in the right direction, and it will help us ensure a prosperous future for ourselves and for our children.

Date: May 19, 2006

Signed: KATHLEEN SEBELIUS, *Governor*

SB 528 Veto Message from the Governor

Abortion is an important moral concern to all Kansans. My Catholic faith teaches me that life is sacred. Personally, I believe abortion is wrong.

That's why I have worked to reduce the number of abortions in Kansas. In my three years as governor, abortion has declined 11.1%. My administration will continue to work to reduce these numbers even more. Next week, for example, I'll sign into law an increase in tax credits for adoption and a budget that contains a 65% increase in funding for the Pregnancy Maintenance Initiative, which helps counsel women on options other than abortion. These common-sense steps will reduce abortion, and will provide real solutions for women facing this tragic decision.

SB 528, by contrast, will do nothing to reduce abortion in Kansas. Instead, it will force women to provide intimate, sensitive health information to the government. Privacy is a fundamental concern to all Kansans. I worked to enhance Kansans' health privacy as Insurance Commissioner, and I intend to protect it as Governor. As we have seen in recent months in Kansas, we can never take our health privacy for granted.

Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto SB 528.

Date: May 19, 2006

Signed: KATHLEEN SEBELIUS, *Governor*

SB 55, SB 324, SB 365, SB 404, SB 432, SB 503 approved May 22, 2006.

SB 62, SB 297; H Sub SB 303; SB 379 approved May 23, 2006.

May 23, 2006

In our recent letter to the Senate dated April 20, 2006, the appointment of Don Jordan as Commissioner of the Juvenile Justice Authority was submitted for confirmation by the Senate. Mr. Jordan's confirmation had been held over for hearing by the Senate Confirmation Oversight Committee. In preparation for this hearing and reviewing K.S.A. 75-7001, we

found that this position is not subject to confirmation. Therefore it will not be necessary for Mr. Jordan to stand for confirmation.

KATHLEEN SEBELIUS
Governor

H Sub SB 180; H Sub SB 431; SB 506 approved May 24, 2006.

SB 142 Veto Message from the Governor

We have a rich tradition in Kansas of working to increase citizen participation in our democracy. This bill claims to advance that tradition, but sadly, it does not.

There are elements in this bill I believe should be law, such as the increased reporting requirements during the period before an election. To demonstrate my commitment to openness, I pledge to follow this proposal by self-reporting contributions over \$350 during the so-called "blackout period" at the end of the election. I urge other candidates to do the same.

I would eagerly sign real campaign finance reform that increases reporting requirements for candidates, parties and third-party groups. But this bill includes too many other objectionable elements, and it completely ignores the impact of shadowy third-party groups on our democracy.

I wholeheartedly embrace efforts to prevent voter fraud, which is why I'm glad to hear from county election officials that there is no conclusive evidence suggesting there is voter fraud taking place with advance ballots.

Voting has become easier and more convenient in our state as a result of initiatives like advance voting, but this bill would move us in the wrong direction. At a time when many communities are reducing the number of polling places and encouraging Kansans to advance vote, this bill would make it harder to cast a ballot. Sedgwick County, for example, plans to cut the number of polling places in the county from 208 to 62, increasing the barriers for elderly, disabled, and low-income voters, and making advance voting even more important. Adding forms and affidavits to read and sign will confuse voters and very likely cause many to not vote.

In addition to wanting to make it easier to vote, most Kansans would also agree we don't need more money in politics. That's why raising the contribution limits for candidates running for the Legislature, as proposed here by legislators, is a bad idea.

If the Legislature sends me real campaign finance reform, I will sign it. This bill is not real reform.

Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto SB 142.

Date: May 24, 2006

Signed: KATHLEEN SEBELIUS, *Governor*

VETO SUSTAINED

President Morris announced the time had arrived for reconsideration of **SB 142**, An act concerning certain activities concerning elections and governmental ethics; relating to advance voting ballots; relating to electronic and electromechanical voting systems; relating to the use of optical scanning systems to count votes; relating to campaign finance; reporting of election crimes; filing of substantial interest forms by certain members of the judicial branch; relating to advance voting; relating to recall petitions; amending K.S.A. 25-4119d, 25-4142, 25-4148, 25-4153, 25-4156, 25-4157, 25-4157a, 25-4401, 25-4403, 25-4404, 25-4405, 25-4406, 25-4407, 25-4409, 25-4410, 25-4411, 25-4412, 25-4413, 25-4414, 25-4601, 25-4602, 25-4603, 25-4604, 25-4607, 25-4609, 25-4610, 25-4611, 25-4612, 25-4613, 46-282, 46-283 and 46-285 and K.S.A. 2005 Supp. 25-1122, 25-1124, 25-1128, 25-4143, 25-4302, 25-4322 and 46-247 and repealing the existing sections; also repealing K.S.A. 25-1307, 25-1309, 25-1311, 25-1312, 25-1313, 25-1314, 25-1315, 25-1317, 25-1318, 25-1319, 25-1320, 25-1321, 25-1322, 25-1324, 25-1325, 25-1326, 25-1327, 25-1328, 25-1329, 25-1330,

25-1331, 25-1332, 25-1333, 25-1334, 25-1335, 25- 1336, 25-1337, 25-1338, 25-1339, 25-1341 and 25-1343.

There being no action on **SB 142**, the veto was sustained.

ACTION ON VETO MESSAGE

President Morris announced the time had arrived for reconsideration of **SB 528**.

Senator Brownlee moved the Senate reconsider the veto of **SB 528** and the bill be passed notwithstanding the Governor's veto.

SB 528, An act concerning public health; relating to the reporting of statistical data regarding termination of pregnancies; amending K.S.A. 65-445 and 65-2409a and repealing the existing sections.

On roll call, the vote was: Yeas 23, Nays 12, Present and Passing 0, Absent or Not Voting 5.

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

Nays: Betts, Brungardt, Emler, Francisco, Haley, Hensley, Lee, Schmidt V, Schodorf, Teichman, Vratil, Wysong.

Absent or Not Voting: Allen, Goodwin, Kelly, Reitz, Steineger.

A two-thirds constitutional majority having not voted in favor of overriding the Governor's veto, the motion did not prevail and the veto was sustained.

EXPLANATION OF VOTE

MR. PRESIDENT: While I voted for **SB 528**, I do not respond with compliance to threats, especially from "anonymous" constituents. Mr. President, I vote no.—JAY SCOTT EMLER

MR. PRESIDENT: I agree with the Governor's message where it states:

"Abortion is an important moral concern to all Kansans. Personally, I believe abortion is wrong.

"**SB 528**, by contrast, will do nothing to reduce abortion in Kansas. Instead, it will force women to provide intimate, sensitive health information to the government. Privacy is a fundamental concern to all Kansans."

MR. PRESIDENT, for the 2006 session this bill, spawned in secrecy and confusion with no regard for established legislative procedure, is the bill from hell. I vote to withstand the Governor's veto and give the devil his due by sending it back and letting it die.—DAVID HALEY

COMMUNICATIONS FROM STATE OFFICERS

KANSAS DIVISION OF HEALTH POLICY AND FINANCE

May 22, 2006

Randy Peterson, President and CEO, Salina Regional Health Center, as required by 2004 Senate Substitute for HB 2912, submitted the annual report of the Health Care Access Improvement Panel.

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

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **HB 2529**.

There being no further business to be considered, Senator D. Schmidt moved, as provided in **SCR 1626**, the Senate adjourn Sine Die. The motion prevailed.

President Morris thereupon announced: "By virtue of the authority vested in me as President of the Senate, I now declare the 2006 Session of the Kansas Senate adjourned Sine Die."

MESSAGE FROM THE HOUSE

Announcing the following bills and concurrent resolutions are hereby transmitted to the Senate with final disposition:

Senate bills that died in Committee: **SB 12, SB House Substitute for SB 34, SB 44, SB 45, SB 49, SB 65, SB 67, SB 71, Substitute SB 80, SB 81, SB 89, SB 90, SB 117, SB 128, SB 129, SB 132, House Substitute for SB 140, Substitute SB 143, SB 144, SB 145, SB 146, Substitute SB 149, SB 201, SB 210, Substitute SB 211, SB 220, SB 221, SB 234, SB 244, SB 245, SB 246, SB 263, SB 267, SB 274, SB 276, SB 277, House Substitute for SB 288, SB 296, Substitute SB 306, House Substitute for SB 317, SB 319, SB 320, Substitute SB 322, SB 326, SB 327, SB 329, SB 334, Substitute SB 338, SB 339, House Substitute for SB 340, SB 342, SB 347, SB 351, Substitute SB 370, SB 380, SB 381, SB 382, SB 397, SB 398, SB 403, SB 409, SB 412, SB 413, SB 419, SB 440, SB 451, SB 458, SB 462, SB 469, Substitute SB 488, Substitute SB 490, SB 491, SB 508, SB 516, SB 518, SB 535, SB 536, SB 545, SB 551, SB 555, SB 568, SB 569, SB 570, SB 571, SB 573, SB 580, SB 583, SB 585, SB 590.**

Senate concurrent resolutions that died in Committee: **SCR 1602, SCR 1620, SCR 1623.** Senate bills that died in Conference: **H Sub SB 70, H Sub SB 217, H Sub for Sub SB 260, SB 421, SB 459.**

Senate concurrent resolutions that died in Conference: **SCR 1624.**

MESSAGE FROM THE HOUSE

Announcing the House herewith transmits the veto message from the Governor on House Bill No. 3004, AN ACT concerning certified public accountants; relating to admission to examination; amending K.S.A. 2005 Supp. 1-302a and repealing the existing section.

Pursuant to Article 2, Section 14 of the Kansas Constitution, I veto HB 3004 which changes the educational requirements needed for one to apply to take the accountancy examination from the Kansas Board of Accountancy. Changes to the requirements for taking the accountancy examination should include review of all aspects of the requirements including reciprocity. This bill focuses on only one requirement for the accountancy examination. The Board of Accountancy has begun a comprehensive review of the requirements and is set to report their findings to the 2007 Legislature. This legislation is set to be in law for only one year and I believe that the state is better served by making decisions on the requirements for the accountancy examination once a thorough review has been completed.

Vetoed May 19, 2006

Signed KATHLEEN SEBELIUS, *Governor*

There being no motion to reconsider House Bill No. 3004, the Speaker of the House ruled the veto sustained.

MESSAGE FROM THE HOUSE

Announcing the House herewith transmits the veto message from the Governor, on Senate Substitute for House Bill No. 2968, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2006, June 30, 2007, June 30, 2008, June 30, 2009, June 30, 2010, and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2005 Supp. 75- 6702 and repealing the existing section.

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Substitute for House Bill No. 2968 with my signature approving the bill, except for the items enumerated below.

Health Policy Authority**Business Health Partnership**

Section 35(d) has been line item vetoed in its entirety.

I veto removal of the \$500,000 from the State General Fund for FY 2007 for the Business Health Partnership that was approved by the 2006 Legislature in SB 480, the MEGA bill. This pilot program was originally requested by the Business Health Policy Committee, which was created by the Legislature with the intention of providing small businesses access to health coverage at an affordable rate. The Committee includes business leaders and legislators. The Health Policy Authority has already presented a request for proposals and undertaken a considerable amount of other preparation work to implement this program. Leaving this \$500,000 appropriation in the budget allows the Business Health Partnership to go forward.

Department of Wildlife & Parks

Playa Lakes Groundwater

Section 63(f) has been line item vetoed in its entirety.

I veto this portion of the bill, which would not allow any state funds to be used to pump or transport water to playa lakes or other wetlands in the region of the high plains aquifer belonging to the Department of Wildlife and Parks. The playa lakes and wetlands affected by this proviso are important components of the national flyway for both shore birds and waterfowl. In addition, they are important open public hunting facilities. The water rights that have been granted for the purpose of maintaining these resources are appropriately dealt with in the Water Appropriations Act and should not be limited or changed through a proviso in an appropriations bill.

Motor Vehicles

Section 63(g) has been line item vetoed in its entirety.

This item would require the Department of Wildlife and Parks to retain 25 vehicles in the agency fleet. Over the last three years, all agencies have been examining their vehicle fleets in an attempt to reduce them to the most efficient level possible. Requiring an agency to retain vehicles that they may not need does not promote efficient management.

Legislature

Tiered Floor of House Chamber

Section 70 has been line item vetoed in its entirety.

I veto Section 70, which prohibits the use of any expenditures to level permanently the tiered floor in the Kansas House chamber. This section would alter the plan for Statehouse renovation agreed to by the Capitol Restoration Committee and would create problems in meeting ADA requirements. A level floor allows full seating for the House members and maximum access for people with disabilities.

Approved May 24, 2006

Signed KATHLEEN SEBELIUS, *Governor*

There being no motion to reconsider, the Speaker ruled the line item vetoes to Senate Substitute for HB 2968 sustained.

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

PAT SAVILLE, *Secretary of the Senate.*

