

Journal of the House

FIFTY-FIFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, April 29, 2010, 10:30 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.

The roll was called with 122 members present.

Rep. Fund was excused on verified illness.

Reps. Aurand and Bethell were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Dr. Mark A. Leenerts, Journey Church, Topeka:

Almighty God, you have given us this good land to call our home, help us to remain mindful and grateful for that blessing. Lord we humbly ask that we may always prove ourselves a people mindful of your grace and honored by the privilege to serve in this role. Lord may these men and women I gather with this morning, always remain aware of the tremendous opportunity and responsibility they have been given to serve you in this role. Help them Lord to do your will. Bless our land with honorable men and women who exercise sound judgment and Godly wisdom. Protect us from violence, discord and confusion, from pride and arrogance, and from every evil way. Help these before me to defend our liberties, and fashion us into one united people, before you, our Holy and righteous God. Endow these individuals with your wisdom to know the right things to do, and the courage to do them, even when it's hard. Thank you for entrusting them with the authority of government. Help them to be agents of justice and peace. Help us, through obedience to your laws, to show forth your praise among the nations of the earth. In times of prosperity fill our hearts with thankfulness, and in days of trouble, help our trust in you to never fail. All of this I ask through Jesus Christ our Lord. Amen.

The Pledge of Allegiance was led by Rep. Kuether.

INTRODUCTION OF GUESTS

There being no objection, the following remarks by Rep. Swanson are spread upon the journal:

It is my pleasure to welcome to the House chamber, members of the 2010 4A State Wrestling Championship team from Clay Center Community High School.

This is the third State Championship for these wrestlers in the past four years.

Members present include: Coach Brandon Pigorsch, Logan Singular, Jayde Kolterman, Landon Singular, Tyler Anderson, Colton Easterberg, Chance Davis, Zach Anderson and Jake Delp.

The grade point average for this year's team is a 3.18. I think it is important to recognize that these young men are good students as well as good athletes.

Please help me recognize the accomplishments of these young men and their coach.

Rep. Swanson presented Coach Pigorsch with a framed House certificate.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Mast are spread upon the journal:

It is my pleasure today to recognize the Olpe High School Girls' Basketball team as the 2A champions for 2010. These girls have gone undefeated and their coach, Jesse Nelson, has been coaching and winning basketball games for 32 years.

The team has only one senior this year so we look forward to the work ahead for them next season.

The team members are: Shelby Stout, Kathryn Flott, Jill Cole, Natalie Kuhlmann, Caitlyn Henderson, Cara Garretson, Dalton Benton, Kendyl McDougald, Sara Wendling, Janae Haag, Emily Samuels, Taylor Schaidegger and Emmy Redeker. The assistant coach is Carolyn Davis and the Head Coach is Jesse Nelson.

In recognition of this team, I would like to award a certificate acknowledging their accomplishment.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committee as indicated:

Appropriations: **HB 2748**.

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HR 6036** from Committee on Federal and State Affairs and referral to Committee on Appropriations.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Brunk, **HR 6040**, by Reps. Brunk, Ward, Barnes, DeGraaf, Dillmore, Finney, Flaharty, Garcia, Goico, Goyle, Huebert, Jack, Kerschen, Landwehr, Loganbill, Hermanson, McCray-Miller, McLeland, Myers, Pottorff, Suellentrop and Swenson, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6040—

A RESOLUTION congratulating and commending the Wichita Heights High School basketball team and Coach Joe Auer for winning the 2010 Class 6A State Basketball Championship.

WHEREAS, The Wichita Heights High School boys' basketball team won the 2010 Kansas State High School Activities Association Class 6A State Basketball Championship with a 56-40 win over Blue Valley Northwest in the state championship game at White Auditorium in Emporia; and

WHEREAS, The Wichita Heights High School Falcons basketball team finished the season with a record of 23 wins and 2 losses and, after their 2010 tournament win, have won back-to-back state championships, something that hasn't happened in Class 6A for 16 years; and

WHEREAS, For the 2009-2010 season, the team set and accomplished the following team goals: Winning the City League, the mid-season tournament in Dodge City and finally the state tournament. Not only did they win the state championship, they were also ranked 43rd by ESPN and 24th in the MaxPreps national ranking for high school basketball teams; and

WHEREAS, The members of this championship team were Jay Bradley, Taylor Countee, Taylor Cross, Aaron Degraffenread, E.J. Dobbins, Perry Ellis, Aaron Jefferson, Terrence Moore, Jalen Owens, Keith Riley, Dreamius Smith and Evan Wessel. The team managers were Victor Parker and Maui Perez. The coaches were head coach Joe Auer and assistant coaches Bryan Chadwick, Aaron Hanshaw, Caleb Reimer, Tyler Richardson, Gary Thomason, Richard Vix and Ben Wahlers; and

WHEREAS, The success of this team was due to their amazing athletic ability, their diligent study of the game, understanding the role each member had to play and using these strengths in an intelligent manner. The team also had the enthusiastic support of all of the athletes at Wichita Heights, as well as the parents, teachers, fellow students and community as a whole: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend the Wichita Heights High School basketball team and coach Joe Auer for winning the 2010 Kansas High School Activities Association Class 6A State Basketball Cham-

pionship and extend our best wishes for their continued success and happiness in the future; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to provide 22 enrolled copies of this resolution to Representative Brunk, one each to be given to each team member, manager and coach of the Wichita Heights High School basketball team.

There being no objection, the following remarks of Reps. Brunk and McCray-Miller are spread upon the journal:

Rep. Brunk: I would like to recognize the Wichita Heights High School Boys' Basketball 2010 Kansas State High School Class 6A champions.

Following are highlights of their accomplishments:

- The team was awarded the State Sportsmanship Award for the second straight year by the Kansas High School Activities Association.
- The team has an average grade point average of 3.2.
- The team lost three starters from its 2009 state championship team.
- They are the first Kansas Class 6A team to win back-to-back state championships since 1993-1994.
- This team will return 11 of the 12 varsity players next season — 6A schools . . . watch out for next year . . . we will be back!

Rep. McCray-Miller: We want to congratulate Heights High School on their back-to-back Class 6-A Basketball Titles. Heights is affectionately known as, "Hollywood Heights" and they certainly have the stars to prove it! Starting with their star player, Perry Ellis, who stands 6'8" and carries a 4.0 grade point average — how about that? This young man has become a household name and was named the Kansas Gatorade Player of the Year and the ESPN National Sophomore of the Year. Coach Auer was named the State Coach of the year by the Kansas Basketball Coaches Association. Junior point guard Evan Wessel made a verbal commitment to accept a basketball scholarship from Wichita State University.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. K. Wolf, **HR 6030**, A resolution promoting public awareness of the risk of colon cancer, recognizing March as Colon Cancer Awareness Month and commending the Kansas Association of Health Plans, the American Cancer Society and the Kansas Insurance Commissioner for their efforts to fight this disease through encouraging regular colon cancer screenings, was adopted.

There being no objection, the following remarks of Rep. K. Wolf are spread upon the journal:

I wanted to make a few comments today regarding colon cancer screenings. As most of you know, assuring that Kansans have insurance coverage for screenings has been a priority of mine and Rep Benlon's.

It bears repeating that Colon Cancer is the third most common cancer. An estimated 500 Kansans will die this year. Access to screening test can reduce deaths by 80% and if detected early colon cancer is 92% curable. Late detection results in only a 10% chance of survival.

We were so pleased to have been a part of a coalition with Insurance Commissioner Praeger, the American Cancer Society and the Kansas Association of Health Plans. Working together as a team, an agreement was reached and a press release issued on March 9th stating colon cancer screenings are a priority and will be a covered benefit for members of individual and group health plans.

Our original intent was to recognize the members of this coalition and to present them with their copies of the resolution last month as March is Cancer Awareness month. This was not possible as we adjourned the day before.

However, Rep Benlon and I did want this body to be aware of the work this group accomplished and its' importance to all Kansans health. Assuring colon cancer screenings are accessible and a covered benefit to a Kansans will play a significant part in the on-going

endeavor of living a longer and healthier life. Many lives will be saved by early detection, timely screening and the promotion of colon cancer awareness.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to House Rule 2306, **H. Sub. for SB 572** was withdrawn from the calendar under the heading General Orders, and rereferred to Committee on Appropriations.

On motion of Rep. Merrick, the House recessed until 3:00 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

COMMUNICATIONS FROM STATE OFFICERS

From Roger Werholtz, Secretary, Department of Corrections, in accordance with K.S.A. 60-4117, State Forfeiture Fund for the period of December 1, 2008 through December 1, 2009.

From William V. Minner, Executive Director, Kansas Human Rights Commission, pursuant to K.S.A. 44-1004(13), Annual Report, Fiscal Year 2009.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

CHANGE OF CONFEREES

Speaker O'Neal announced the appointment of Rep. Vickrey as a member of the conference committees on **H. Sub. for SB 293; H. Sub. for SB 300; HB 2130, HB 2482, HB 2486** to replace Rep. King.

On motion of Rep. Merrick, the House resolved into Committee of the Whole, with Rep. Rhoades in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Rhoades, Committee of the Whole report, as follows, was adopted:

Recommended that on motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 54; H. Sub. for SB 342.**

SCR 1622 be adopted.

Committee report to **SB 54** be adopted; and the bill be passed as amended.

On motion of Rep. Knox to adopt the committee report recommending a substitute bill to **H. Sub. for SB 342**, the motion did not prevail. The question reverted back to the original bill, **SB 342**. On motion of Rep. Knox, **SB 342** be rereferred to Committee on Federal and State Affairs.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2554, HB 2561.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2554**, 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 3, in line 37, by striking all after "thereto"; in line 38, by striking all before the period;

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

KARIN BROWNLEE
 JULIA LYNN
 TOM HOLLAND
Conferees on part of Senate

LANA GORDON
 OWEN DONOHOE
 LISA BENLON
Conferees on part of House

On motion of Rep. Gordon to adopt the conference committee report on **HB 2554**, Rep. Kleeb offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion prevailed.

Speaker O'Neal thereupon appointed Reps. Gordon, Donohoe and Benlon as second conferees on the part of the House.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Hayzlett, the House concurred in Senate amendments to **HB 2561**, An act regulating traffic; allowing transit buses to operate on certain right shoulders; amending K.S.A. 8-1517 and repealing the existing section, by Committee on Transportation.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 82; Nays 38; Present but not voting: 0; Absent or not voting: 5.

Yeas: Ballard, Barnes, Benlon, Bollier, Bowers, Brookens, T. Brown, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Crum, Davis, Donohoe, Faber, Feuerborn, Finney, Flaharty, Furtado, Garcia, D. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henry, Hermanson, Hill, Hineman, Jack, Johnson, Kerschen, King, Kleeb, Kuether, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, Meier, Menghini, Morrison, Moxley, Myers, Neighbor, Palmer, Pauls, Peck, Phelps, Pottorff, Prescott, Proehl, Quigley, Rardin, Roth, Ruiz, Schwartz, Slattery, Spalding, Suellentrop, D. Svaty, Swenson, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Williams, Winn, B. Wolf, K. Wolf, Worley.

Nays: A. Brown, Brunk, Carlson, DeGraaf, Dillmore, Frownfelter, S. Gatewood, Henderson, C. Holmes, M. Holmes, Horst, Huebert, Kelley, Kiegerl, Kinzer, Knox, Landwehr, Lane, McLeland, Merrick, Neufeld, O'Brien, O'Neal, Olson, Otto, Patton, Powell, Rhoades, Schroeder, Schwab, Seiwert, Shultz, Siegfried, Sloan, Swanson, Tafanelli, Whitham, Yoder.

Present but not voting: None.

Absent or not voting: Aurand, Bethell, Fund, George, Peterson.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **SB 520** be amended on page 1, after line 16, by inserting the following:

"Section 1. K.S.A. 2009 Supp. 21-4603d, as amended by section 1 of 2010 House Bill No. 2604, is hereby amended to read as follows: 21-4603d. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense *and may impose the provisions of subsection (p)*;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape, as defined in K.S.A. 21-3809, and amendments thereto, or aggravated escape, as defined in K.S.A. 21-3810, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) if the defendant is convicted of a misdemeanor or a felony provision of subsection (i) of K.S.A. 21-4704, and amendments thereto, assign the defendant to a work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program;

(12) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) and (11); or

(13) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 21-4018, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of resti-

tution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502, and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) ~~In imposing a fine the court may authorize the payment thereof in installments.~~ In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671 prior to its repeal or K.S.A. 2009 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(3) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a defendant

to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendment thereto or a community intermediate sanction center. Pursuant to this paragraph the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or for an offense which is classified in gridblocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and such offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of

follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 2009 Supp. 21-36a06, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 21-4729, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2009 Supp. 75-52,144, and amendments thereto, including but not limited to, an approved after-care plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 21-4705, and amendments thereto. For those offenders who are convicted on or after the effective date of this act, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of post-release supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 2009 Supp. 21-36a06, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously

surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.

(p) *In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed by the later of one year after the fine is imposed or one year after release from imprisonment or jail, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. All credits for community service shall be subject to review and approval by the court.*;

And by renumbering the sections accordingly;

Also on page 1, line 24, by striking "nonprofit" and inserting "charitable"; in line 41, by striking "is" and inserting "and K.S.A. 2009 Supp. 21-4603d, as amended by section 1 of 2010 House Bill No. 2604, are";

Also on page 1, in the title, in line 12, after "concerning" by inserting "crimes, punishment and"; also in line 12, after "to" by inserting "sentencing; payment of fines;"; in line 13, after "22-4603" by inserting "and K.S.A. 2009 Supp. 21-4603d, as amended by section 1 of 2010 House Bill No. 2604,"; and the bill be passed as amended.

On motion of Rep. Merrick, the House recessed until 5:30 p.m.

EVENING SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **SB 572** be amended as recommended by the Committee on Appropriations, as reported in the Journal of the House of Representatives for April 28, 2010, by substituting a new bill designated as House Substitute for SB 572 and further recommends that House Substitute for SB 572 be amended on page 4, by striking all in lines 36 through 43;

On page 5, by striking all in lines 1 through 6; in line 7, by striking "(b)" and inserting "(a)";

On page 36, by striking all in lines 2 through 15; in line 16, by striking "(d)" and inserting "(c)";

On page 47, by striking all in lines 40 through 43;

On page 48, by striking all in lines 1 through 39;

On page 66, in line 13, before "That" by inserting "That the department of administration shall not increase fees above those fees in effect on April 1, 2010, for the fiscal year ending

June 30, 2011: *And provided further,*; in line 19, by striking “*Provided*” and inserting “*And provided*”;

On page 68, by striking all in lines 38 through 43;

On page 69, by striking all in lines 1 through 7;

On page 88, by striking all in lines 12 through 25;

On page 105, in line 22, by striking “\$1,549,709” and inserting “\$1,548,548”; in line 31, by striking “\$21,207,458” and inserting “\$21,226,040”; in line 40, by striking “\$112,326,938” and inserting “\$112,423,334”;

On page 110, in line 27, by striking “\$324,918,886” and inserting “\$336,401,886”;

On page 111, in line 17, by striking “\$38,476,110” and inserting “\$70,093,110”;

On page 113, in line 22, by striking “(g)” and inserting “(f)”;

On page 116, in line 24, by striking “\$85,387,713” and inserting “\$85,618,484”;

On page 119, in line 11, by striking “\$38,399,729” and inserting “\$40,206,666”;

On page 126, in line 3, by striking “\$304,402,545” and inserting “\$291,602,545”;

On page 129, by striking all in lines 20 through 43;

On page 130, by striking all in lines 1 through 36; in line 37, by striking “(j)” and inserting “(e)”;

On page 131, in line 5, by striking “(l)” and inserting “(g)”;

On page 168, in line 4, by striking “\$7,901,469” and inserting “\$6,394,859”;

On page 174, by striking all in lines 4 through 16;

On page 175, in line 9, by striking “\$23,221,420” and inserting “\$23,241,510”;

On page 194, by striking all in lines 35 through 43;

On page 195, by striking all in lines 1 through 6;

On page 289, following line 2, by inserting the following:

“Sec. 161. On the effective date of this act, section 14 of 2010 Senate Substitute for House Bill No. 2222, is hereby amended to read as follows: Sec. 14. (a) On the effective date of this act, of the amount appropriated or reappropriated for the fiscal year ending June 30, 2010, in each account of the state general fund of each state agency, as authorized and provided by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by this or other appropriation act of the 2010 regular session of the legislature, that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, for state officers, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2010, as determined by the director of the budget after consultation with the director of legislative research and upon certification to the director of accounts and reports, the amount equal to 5% of the amount so determined is hereby lapsed: *Provided, however, That the lapse provided for in this subsection shall not apply to the appropriations or reappropriations for fiscal year 2010 in each account of the state general fund for the state board of regents, or any state educational institution under the control and supervision of the state board of regents.*”

(b) On the effective date of this act, notwithstanding the provisions of K.S.A. 2-1904, 17-2233, 20-155, 20-318, 20-3122, 20-3124, 25-4119a, 32-801, 40-102, 40-110, 44-1003, 46-137a, 46-137b, 46-1102, 46-1210, 46-1211, 46-1212a, 48-203, 72-7602, 74-560, 74-601, 74-630, 74-2434, 74-2613, 74-3203a, 74-4908, 74-5002a, 74-8005, 74-8105, 74-8703, 75-412, 75-622, 75-711, 75-2535, 75-2701, 75-2935b, 75-3101, 75-3102, 75-3103, 75-3104, 75-3108, 75-3110, 75-3111, 75-3120f, 75-3120g, 75-3120h, 75-3120j, 75-3122, 75-3123, 75-3124, 75-3125, 75-3126, 75-3135, 75-3136, 75-3137, 75-3141, 75-3148, 75-3149, 75-3150, 75-3212, 75-3223, 75-3702a, 75-5001, 75-5101, 75-5203, 75-5301, 75-5601, 75-5701, 75-5702, 75-5708, 75-5903, 75-6301 and 75-7001 and K.S.A. 2009 Supp. 75-3135a, 75-7206, 75-7207, 75-7402 and 75-7427, and amendments thereto, or any other statute, the rate of compensation for each state officer is hereby reduced by 5% for the period commencing on the first day of the first payroll period commencing after the effective date of this act and for each payroll period thereafter chargeable to fiscal year 2010: *Provided, That such reduction shall not apply to payroll periods commencing on or after June 13, 2010.*”

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2010, by chapter 2, chapter 124 or chapter 144 of the 2009 Session Laws of Kansas or by the state finance council on each special revenue fund in the state treasury is hereby decreased for fiscal year 2010 by the amount equal to 5% of the amount that is budgeted for salaries and wages, including per diem compensation, and any associated employer contributions other than employer payments for participants under the state health care benefits program pursuant to K.S.A. 75-6508, and amendments thereto, for state officers, as defined by this section, for the first payroll period commencing on or after the effective date of this act and each payroll period thereafter chargeable to fiscal year 2010 for such special revenue fund, as determined by the director of the budget, after consultation with the director of legislative research, and certified to the director of accounts and reports: *Provided, however, That the reduction in the expenditure limitations provided for in this subsection shall not apply to the special revenue funds in the state treasury for fiscal year 2010 of the state board of regents, or any state educational institution under the control and supervision of the state board of regents.*

(d) As used in this section, (1) "state agency" has the meaning ascribed thereto by K.S.A. 75-3701, and amendments thereto, and includes the governor's department, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each agency of the executive branch, the legislature and each agency of the legislative branch, the judicial branch and each agency of the judicial branch;

(2) "state officer" means (A) the governor, lieutenant governor, attorney general, secretary of state, state treasurer, commissioner of insurance, each secretary of a department or other chief executive officer of a department of the executive branch, each member of a board, commission, council or authority of the executive branch, (B) each member of the legislature, each legislative officer specified in K.S.A. 46-137b, and amendments thereto, each member of the staff of each legislative officer specified in K.S.A. 46-137b, and amendments thereto, (C) each justice of the supreme court, each judge of the court of appeals, each district judge, each district magistrate judge, and (D) each other state officer in the executive branch, legislative branch or judicial branch of state government whose position is specified by statute or is otherwise determined to be a salaried officer of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the Constitution of the State of Kansas, and in any case "state officer" includes all salaried officers of the state as that phrase is used in section 15 of article 1 or section 13 of article 3 of the Constitution of the State of Kansas; and

(3) "compensation" means any salary or per diem compensation provided by law for a state officer.";

And by renumbering sections accordingly;

Also on page 289, in line 4, after "79-4801" by inserting ", section 14 of 2010 Senate Substitute for House Bill No. 2222";

On page 290, in line 41, preceding the period, by inserting the following "*Provided, however, That the lapse provided for in this subsection shall not apply to the appropriations or reappropriations for fiscal year 2011 in each account of the state general fund for the state board of regents, or any state educational institution under the control and supervision of the state board of regents*";

On page 301, in line 39, following "(b)" by inserting "(1)";

On page 302, preceding line 7, by inserting the following:

"(2) On September 1, 2010, the position limitation established by section 29 of chapter 124 of the 2009 Session Laws of Kansas, by section 113(a) of this act, or other appropriation act of the 2010 regular session, or by the state finance council, on the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from appropriations for the fiscal year ending June 30, 2011, made by chapter 124 or chapter 144 of the 2009 Session Laws of Kansas, by 2010 Senate Substitute for House Bill No. 2222, or by this or other appropriation act of the 2010 regular session of the legislature for each state agency which has budgeted for vacant positions for the fiscal year ending June 30, 2011, is hereby decreased by the full-time equivalent number of vacant positions that are included in the budget of each such state agency for fiscal year 2011, as

determined by the director of the budget, after consultation with the director of legislative research, and certified to the director of accounts and reports.”;

On page 1, in the title, in line 18, after “82a-953a” by inserting “and section 14 of 2010 Senate Substitute for House Bill No. 2222”; and the substitute bill be passed as amended.

REPORT ON ENGROSSED BILLS

S. Sub. for Sub. HB 2509 reported correctly engrossed April 29, 2010.

Sub. HB 2528; HB 2668 reported correctly re-engrossed April 29, 2010.

On motion of Rep. Merrick, the House adjourned until 10:00 a.m., Friday, April 30, 2010.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

