

Journal of the House

FORTY-THIRD DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, March 16, 2011, 11:00 a.m.

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

The roll was called with 123 members present.

Reps. Fund and Schwab were excused on verified illness.

Prayer by guest chaplain, the Rev. David Redmond, pastor, Concordia Wesleyan Church, and guest of Rep. Bowers:

Heavenly Father, we take pause out of the business of the day to invite Your presence, wisdom and grace upon those today who will tackle the decisions and consider the interests of those in this state. We stand upon the legacy of those who have gone before us and have called upon Your Name for guidance and direction.

History tells us that in years past we had leaders who believed that the aspiration of Kansas is "to reach the unattainable; its dream is the realization of the impossible." Capturing that pioneering spirit, our leaders adopted a motto that even now lives on in our state seal which translated means: to the stars with difficulty."

Now Lord, another group of leaders assemble today under different circumstances and various challenges, but I pray that they would have no less of the spirit of those who led us in the past. Give them humility to acknowledge their weakness, strength to face their fears, grace in the face of defeat, and gentleness to accept victory.

May they have the endurance to avoid the road of least resistance. Give them the integrity to always honor truth and justice above positioning, political persuasion, and special interest. Grant them, I pray, enough challenges to cause them to rely upon You, and faith and courage to lead, defend, and protect the people of this great State.

We pray this in the Name of Your Son, Jesus Christ, Amen.

The Pledge of Allegiance was led by Rep. Frownfelter.

Kansas Trivia Question – What was the first county to receive a name and who was it named after?

Answer: Doniphan, named for a hero of the Mexican-American War, Col. Alexander

W. Doniphan.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Energy and Utilities: **HB 2391**.

Taxation: **HB 2392**.

COMMUNICATIONS FROM STATE OFFICERS

From Mark S. Beck, Director, Division of Property Valuation, pursuant to K.S.A. 79-1490, 2010 Preliminary Real Estate Appraisal/Sales Ratio Study.

From Kansas Commission on Disability Concerns, Annual Report 2010.

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

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Phelps, **HR 6016**, by Rep. Phelps and Collins, as follows, was introduced and adopted.

HOUSE RESOLUTION NO. 6016 --

A RESOLUTION congratulating and commending the trailblazer class of the Kansas Academy of Mathematics and Science.

WHEREAS, The Legislature of the state of Kansas enacted legislation in 2006 authorizing the establishment of the Kansas Academy of Mathematics and Science to promote mathematics and science education, increase retention of intellectual capital and promote economic development; and

WHEREAS, The Legislature of the state of Kansas approved five years of funding for the Kansas Academy of Mathematics and Science in 2008; and

WHEREAS, Fort Hays State University is a forward-thinking liberal and applied arts university and is recognized internationally for offering more than 60 degrees in a technology-rich environment. Fort Hays State University aggressively seeks innovative solutions to meet the educational needs of Kansans and enhance the economic future of the state; and

WHEREAS, The State Board of Regents selected Fort Hays State University as the site to host the Kansas Academy of Mathematics and Science in 2007; and

WHEREAS, Fort Hays State University established the Kansas Academy of Mathematics and Science allowing Kansas to become the sixteenth state in the country with an academic early-entry-to college program, which offers a unique residential learning experience for high-achieving high school juniors and seniors who are academically talented in science and mathematics; and

WHEREAS, The Kansas Academy of Mathematics and Science provides a rigorous research environment with doctoral-level faculty that focuses on academics, research, leadership development and civic engagement, which allows Fort Hays State University to cultivate future citizen-leaders; and

WHEREAS, Students who graduate from the Kansas Academy of Mathematics and Science will receive a high school diploma and 68 hours of college credit; and

WHEREAS, The trailblazer class of the Kansas Academy of Mathematics and Science will graduate in 2012; and

WHEREAS, The members of the trailblazer class of the Kansas Academy of Mathematics and Science who will graduate in 2012 are: Justin Arnspiger, Ashland; Peter Betzen, Parsons; Rachel Bieniecki, Tonganoxie; Krysten Brake, Kinsley; Bria Carder, Eudora; Janae Carter, Andover; Jonathan Folkerts, Hays; Kaylin Hawman, WaKeeney; Clinton Herrmann, Sabetha; Chance Kahle, Wamego; Taylor Kane, Scott City; Abbey Killinger, Topeka; Soo Bum Kim, Dukso-ri, Wabu-eub Republic of Korea; Alexander Lee, Lansing; Nyasha Maforo, Winfield; Manvitha Marni, Leawood; Aleta Martin, Topeka; Alondra Meraz, Hugoton; Cole Mosier, Holton; Rachel Schmidt, Atchison; Kara Schnake, Augusta; Logan Smith, Richfield; Elsie Suhr, Sabetha; and Shaley White, Leoti: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend the members of the trailblazer class of the Kansas Academy of Mathematics and Science as they approach graduation and wish them continued success in their academic and personal pursuits and encourage them to use their significant gifts to improve the future of their home state; and

Be it further resolved: That we express gratitude to the educators and support staff at the Kansas Academy of Mathematics and Science who, through their dedication and commitment to excellence in education in the fields of mathematics and science, have brought this program to fruition through the success of the trailblazer class. The efforts of the educators and support staff of the Kansas Academy of Mathematics and Sciences are helping to forge the future for the state of Kansas; and

Be it further resolved: That the Chief Clerk of the House of Representatives shall send two enrolled copies of this resolution, one each to Ronald Keller, Director of the Kansas Academy of Mathematics and Science, and to Dr. Edward Hammond, President, Fort Hays State University, plus 30 copies to Debra Prideaux, Executive Director Alumni and Governmental Relations, Fort Hays State University.

There being no objections, the following remarks of Rep. Phelps are spread upon the journal:

Joining us today is the Trailblazer class of the Kansas Academy of Mathematics & Science at Fort Hays State University.

What is the Kansas Academy of Mathematics and Science? The Kansas Academy of Mathematics and Science is Kansas' premier residential learning experience for exceptional high school juniors and seniors with an interest in mathematics and science. It is on the Fort Hays State University campus.

Over two years, students will receive:

- Up to 68 hours of college credit in addition to a high school diploma.
- Hands-on research opportunities.
- Leadership development and civic engagement opportunities.
- Co-curricular and extracurricular activities to develop the whole student.

KAMS currently accepts 30 Kansas students and a total of 8 national or international students per year.

In their short time in the Academy, these KAMS students have already made many accomplishments:

- * One (1) student placed 1st in one division at the Regional Science & Engineering Fair and will be attending the Kansas State Science & Engineering Fair in April,
- * Eight (8) students made the Dean's Honor Roll,
- * Many will be honored as future Commended and National Merit Scholars.
- * Several were selected as FHSU VIP Ambassadors,
- * One (1) student is co-president of Astronomy Club, and
- * Many participate in FHSU's marching band, chorale groups, drama, and student government association.

These bright, highly motivated students come to KAMS from across Kansas and beyond representing the best and brightest.

We congratulate each of them on their accomplishments and wish them continued success in their academic and personal pursuits. The talents they develop today can and will improve the world of tomorrow, especially here in the great state of Kansas.

CONSENT CALENDAR

No objection was made to **SB 15** appearing on the Consent Calendar for the first day.

No objection was made to **HCR 5020** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2371, AN ACT concerning community corrections; relating to grant programs; amending K.S.A. 2010 Supp. 75-5291 and 75-52,112 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 116; Nays 7; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kleeb, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Vickrey, Victors, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Gordon, Hildabrand, Kinzer, Knox, Patton, Tyson, Ward.

Present but not voting: None.

Absent or not voting: Fund, Schwab.

The bill passed, as amended.

HB 2374, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2011, June 30, 2012, and June 30, 2013, for state agencies; education; 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, was considered on final action.

On roll call, the vote was: Yeas 70; Nays 53; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alford, Arpke, Aurand, Billinger, Boman, Bowers, Brown, Brunk, Burgess, Carlson, Cassidy, Collins, Crum, DeGraaf, Denning, Donohoe, Fawcett, Garber, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Hermanson, Hildabrand, Hoffman, C. Holmes, Howell, Huebert, Johnson, Kelley, Kiegerl, Kinzer, KleeB, Knox, Landwehr, Mast, McLeland, Meigs, Mesa, Montgomery, Mosier, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Peck, Powell, Prescott, Rhoades, Rubin, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Smith, Suellentrop, Tyson, Vickrey, Weber, B. Wolf.

Nays: Ballard, Bethell, Bollier, Brookens, Bruchman, Burroughs, Calloway, Carlin, Colloton, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, D. Gatewood, S. Gatewood, Grant, Henderson, Henry, Hill, Hineman, M. Holmes, Kelly, Kerschen, Kueher, Lane, Loganbill, Mah, McCray-Miller, Meier, Moxley, Pauls, Peterson, Phelps, Pottorff, Proehl, Roth, Ruiz, Slattery, Sloan, Spalding, Swanson, Tietze, Trimmer, Victors, Ward, Wetta, Williams, Winn, K. Wolf, Wolfe Moore, Worley.

Present but not voting: None.

Absent or not voting: Fund, Schwab.

The bill passed, as amended.

EXPLANATIONS OF VOTE

MR. SPEAKER: The notion that these draconian cuts will have no negative impact on schools, that they can fund them with unused funds is ridiculous. Districts must keep operating balances just to protect themselves from the state. When we miss payments and when we delay payments, these balances keep school doors open and make the payroll. How many times do we say schools should operate more like a business, then when they try to have a rainy day fund like a business, we drain them. I vote no on **HB 2374**. – ANN MAH

MR. SPEAKER: As members who have been placed in a position of trying to get KPERs back on solid footing, we must respectfully vote against a bill that borrows from KPERs. We vote no on **HB 2374**. – MITCH HOLMES, JIM KELLY

HCR 5023, A CONCURRENT RESOLUTION urging the United States Congress to preserve the primacy of the Kansas Corporation Commission to regulate hydraulic fracturing in compliance with state regulations and not to enact any future legislation that would remove this primacy. , was considered on final action.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Colloton, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl,

Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: Fund, Schwab.

The resolution was adopted.

On motion of Rep. Siegfried, the House resolved into the Committee of the Whole, with Rep. McLeland in the chair.

COMMITTEE OF THE WHOLE

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

Recommended that committee report to **HB 2357** be adopted; and the bill be passed as amended.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **SB 55** be amended by substituting a new bill to be designated as "House Substitute for SENATE BILL NO. 55," as follows:

"HOUSE Substitute for SENATE BILL NO. 55

By Committee on Corrections and Juvenile Justice

"AN ACT concerning crimes, criminal procedure and punishment; relating to electronic communications; relating to harassment by telecommunications device; relating to warrants for interception and information; amending K.S.A. 2010 Supp. 22-2502 and 22-2516 and section 184 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections."; and the substitute bill be passed.

(**H. Sub. for SB 55** was thereupon introduced and read by title.)

Committee on **Corrections and Juvenile Justice** recommends **SB 176** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL NO. 176," as follows:

"HOUSE Substitute for SENATE BILL NO. 176

By Committee on Corrections and Juvenile Justice

"AN ACT concerning criminal procedure; relating to conditions of release and bond; relating to house arrest; relating to employment of county and municipal prisoners; amending K.S.A. 22-4603 and K.S.A. 2010 Supp. 12-4509 and 22-2802 and sections 244, 249 and 285 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections; also repealing K.S.A. 2009 Supp. 21-4603d, as amended by section 7 of chapter 101 of the 2010 Session Laws of Kansas, and K.S.A. 2010 Supp. 21-4603d and 21-4704."; and the substitute bill be passed.

(**H. Sub. for SB 176** was thereupon introduced and read by title.)

Committee on **Federal and State Affairs** recommends **HB 2229** be amended by

substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2229," as follows:

"Substitute for HOUSE BILL NO. 2229

By Committee on Federal and State Affairs

"AN ACT concerning professional negotiations; establishing the equal access act; amending K.S.A. 2010 Supp. 72-5413 and repealing the existing section."; and the substitute bill be passed.

(Sub. **HB 2229** was thereupon introduced and read by title.)

Committee on **Federal and State Affairs** recommends **HR 6015** be amended on page 1, in line 31, after "K.S.A." by inserting ". 2010 Supp."; in line 32, after "K.S.A." by inserting "2010 Supp.";

On page 2, in line 4, after "K.S.A." by inserting "2010 Supp."; in line 8, after "K.S.A." by inserting "2010 Supp."; in line 16, after "K.S.A." by inserting "2010 Supp."; in line 28, after "K.S.A." by inserting "2010 Supp.";

On page 3, in line 1, after "K.S.A." by inserting "2010 Supp."; in line 3, after "K.S.A." by inserting "2010 Supp."; in line 12, after "K.S.A." by inserting "2010 Supp."; in line 26, by striking "74-8762(e)" and inserting "2010 Supp. 74-8734(o) and 74-8751"; in line 27, after "K.S.A." by inserting "2010 Supp.";

On page 1, in the title, in line 1, by striking "requesting" and inserting "requiring"; in line 6, after "K.S.A." by inserting "2010 Supp."; and the resolution be adopted as amended.

Committee on **Insurance** recommends **SB 65** be amended on page 5 following line 12, by inserting:

"New Sec. 4. (a) Any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization, municipal group-funded pool and the state employee health care benefits plan which is delivered, issued for delivery, amended or renewed on or after July 1, 2011, shall exclude coverage for elective abortions, unless the procedure is necessary to preserve the life of the mother. Coverage for abortions may be obtained through an optional rider for which an additional premium is paid. The premium for the optional rider shall be calculated so that it fully covers the estimated cost of covering elective abortions per enrollee as determined on an average actuarial basis.

(b) No health insurance exchange established within this state or any health insurance exchange administered by the federal government or its agencies within this state shall offer health insurance contracts, plans or policies that provide coverage for elective abortions, nor shall any health insurance exchange operating within this state offer coverage for elective abortions through the purchase of an optional rider.

(c) For the purposes of this section:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child and which causes the premature termination of the pregnancy.

(2) "Elective" means an abortion for any reason other than to prevent the death of

the mother upon whom the abortion is performed; provided, that an abortion may not be deemed one to prevent the death of the mother based on a claim or diagnosis that she will engage in conduct which will result in her death.

Sec. 5. K.S.A. 2010 Supp. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170, inclusive, 40-2250, K.S.A. 2010 Supp. 40-2,105a, 40-2,105b ~~and~~ 40-2,184, and section 4, and amendments thereto, shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.

Sec. 6. K.S.A. 2010 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, applicable to nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2010 Supp. 40-2,105a, 40-2,105b ~~and~~ 40-2,184, and section 4, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

New Sec. 7. If any provisions of section 4 or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

New Sec. 8. (a) Notwithstanding any law, rule or regulation to the contrary, no state employee shall be eligible for coverage or reimbursement for an elective abortion under the state health care benefits program as established in K.S.A. 75-6501, and amendments thereto, or the cafeteria plan as established in K.S.A. 75-6512, and amendments thereto.

(b) For the purposes of this section:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child and which causes the premature termination

of the pregnancy.

(2) "Elective" means an abortion for any reason other than to prevent the death of the mother upon whom the abortion is performed; provided, that an abortion may not be deemed one to prevent the death of the mother based on a claim or diagnosis that she will engage in conduct which will result in her death.";

And by renumbering sections accordingly;

Also on page 5, in line 13, after "40-22a15" by inserting "and K.S.A. 2010 Supp. 40-2,103 and 40-19c09";

On page 1, in the title, in line 1, by striking "health" where it appears for the first time; in line 2, after "decisions;" by inserting "excluding coverage for certain abortions; relating to state employee health savings accounts;" also in line 2, after "40-22a15" by inserting "and K.S.A. 2010 Supp. 40-2,103 and 40-19c09"; and the bill be passed as amended.

Committee on **Insurance** recommends **SB 170** be amended on page 1, following line 14, by inserting "(e) "Location" means any physical location in the state of Kansas."; in line 24, by striking "cover" and inserting "provide coverage for"; in line 25, after "theft," by inserting "are inoperable due to"; in line 26, by striking "applicable perils" and inserting "similar causes of loss";

And by relettering the remaining subsections accordingly;

On page 2, in line 6, by striking "agency" and inserting "entity"; in line 7, after "producer" by inserting "or insurer"; in line 27, by striking "only"; in line 28, by striking "expressly";

On page 3, in line 2, by striking "agency" and inserting "entity"; in line 11, by striking "any requirements:"; in line 12 by striking "(A) To" and inserting "how to"; in line 14, by striking "; and"; by striking all before the period in line 15; in line 17, by striking "a" where it appears for the last time; in line 18 by striking "refund of any unearned premium" and inserting "any applicable unearned premium refund"; in line 36, after "insurance" by inserting "either directly supervises or"; in line 37, by striking "agency" and inserting "entity";

On page 4, in line 2, by striking "all"; in line 3, by striking "the vendors who sell or offer" and inserting "a vendor who is directly engaged in the activity of selling or offering"; in line 6, by striking "agency" and inserting "entity"; in line 8, by striking "agency" and inserting "entity"; in line 9, after "training" by inserting "supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising entity"; in line 22, by striking "charge for" and inserting "portable electronic insurance"; in line 24, by striking "the" where it appears for the second time; by striking all in line 25; in line 26, by striking "the charge for coverage"; and inserting "the portable electronics insurance coverage is included with the portable electronics or related services"; in line 30, by striking "agency" and inserting "entity"; in line 35, by striking "supervision agency" and inserting "supervising entity"; in line 39, by striking "supervision agency" and inserting "supervising entity";

On page 5, in line 6, by striking "terminate or otherwise"; and the bill be passed as amended.

Committee on **Social Services Budget** recommends **HB 2296** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2296," as follows:

“Substitute for HOUSE BILL NO. 2296
By Committee on Social Services Budget

“AN ACT concerning state institutions and state agencies; establishing the joint committee on oversight of the closure of the Kansas neurological institute; Kansas neurological institute community conversion conservation fund.”; and the substitute bill be passed.

(**Sub. HB 2296** was thereupon introduced and read by title.)

Committee on **Taxation** recommends **HB 2347** be amended on page 1, by striking all in line 10; in line 11, by striking "and 5%" and inserting "18% for tax years 2010 through 2012, and an amount equal to 17%"; in line 16, by striking "the"; by striking all in lines 17 through 19; in line 20, by striking all before the period and inserting "if the amount of the tax credit allowed by section (a) exceeds the taxpayer's income tax liability imposed under the Kansas income tax act for the taxable year, the amount which exceeds the tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fifth taxable year succeeding the taxable year in which the credit was claimed"; and the bill be passed as amended.

Committee on **Transportation and Public Safety Budget** recommends **HB 2173** be amended on page 1, in line 11, by striking "fixed" and inserting "negotiated"; in line 22, by striking "fix" and inserting "negotiate"; and the bill be passed as amended.

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

AFTERNOON SESSION

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

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **HB 2322** be amended on page 3, in line 10, by striking "or" and inserting ";

(2) on or after April 14, 1994,"; in line 12, before the semicolon, by inserting ", unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim";

And by redesignating paragraphs accordingly;

On page 5, in line 13, after "motivated" by inserting ", unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim";

On page 9, by striking all in lines 31 through 35;

And by redesignating subsections accordingly;

On page 12, in line 26, by striking "conviction or adjudication" and inserting "sentencing or disposition";

On page 13, in line 7, after the semicolon by inserting "and"; in line 9, by striking "; and"; by striking all in lines 10 and 11; in line 12, by striking all before the period;

On page 19, in line 6, after "(b)" by inserting "except as provided further, for any: (1) Sex offender,"; in line 8, by inserting before the period "; and (2) violent offender or drug offender, at the discretion of the registering law enforcement agency, report in person three times each year and by certified letter one time each year to the registering law enforcement agency in the county or location of jurisdiction in which the offender resides, maintains employment or is attending a school. Any offender may, at the discretion of the registering law enforcement agency, report by certified letter four times each year if the registering law enforcement agency determines that such offender is incapacitated. When utilized, the certified letter for reporting shall be sent to the reported residence of the offender and shall require the offender to respond to the registering law enforcement agency with any changes in information as required for reporting in person within 10 days";

On page 21, in line 2, by striking all following "state"; by striking all in line 3; in line 4, by striking "military"; in line 5, after "Columbia" by inserting ", except if the offender is presently serving and maintaining active duty in any branch of the United States military or the offender is an immediate family member of a person presently serving and maintaining active duty in any branch of the United States military";

On page 23, by striking all in lines 32 through 41; following line 41, by inserting "(a) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of section 69 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, when one of the parties involved is less than 18 years of age;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or section 75 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or section 231 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, when one of the parties involved is less than 18 years of age;

(D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or section 77 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, when one of the parties involved is less than 18 years of age;

(E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(F) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or section 37 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(G) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or section 38 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(H) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or section 39 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(I) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or section 40 of chapter 136 of the 2010 Session Laws of Kansas, and amendments

thereto;

(J) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or section 46 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;

(K) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

(L) conviction of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(M) unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined in K.S.A. 65-4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, and amendments thereto;

(N) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by subsection (a) of K.S.A. 65-7006, prior to its repeal or subsection (a) of K.S.A. 2010 Supp. 21-36a09, and amendments thereto;

(O) K.S.A. 65-4161, prior to its repeal or subsection (a)(1) of K.S.A. 2010 Supp. 21-36a05, and amendments thereto; or

(P) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, of an offense defined in this subsection.";

Also on page 23, in line 42, by striking "(b)" and inserting "(2)";

On page 24, by striking all in lines 6 through 26; following line 26, by inserting "(b) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, when one of the parties involved is less than 18 years of age;

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of section 72 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or section 73 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of section 70 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or section 76 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of section 69 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or section 230 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, if the prostitute is 14 or more years of age but less than 18 years of age; or

(J) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 25 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(c) Upon a second or subsequent conviction of an offense requiring registration, an offender's duration of registration shall be for such offender's lifetime.

(d) The duration of registration for any offender who has been convicted of any of the following offenses shall be for such offender's lifetime:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(2) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of section 72 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of section 70 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of section 61 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, if the victim is less than 18 years of age;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, if the victim is less than 14 years of age;

(8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or

section 230 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, if the prostitute is less than 14 years of age;

(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of section 43 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of section 43 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto; or

(11) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, of an offense defined in this subsection.";

And by redesignating remaining subsections accordingly;

Also on page 24, in line 34, by striking all following the comma; by striking all of lines 35 through 41 and inserting "the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).";

On page 25, in line 6, by striking "the duration of"; by striking all in line 7 through 13 and inserting "the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law

enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).";

On page 26, in line 19, after "and" where it appears for the second time, by inserting ", except when such reporting is conducted by certified letter as provided in subsection (b) of K.S.A. 22-4905, and amendments thereto,";

On page 29, in line 33, after "offender;" by inserting "and"; in line 34, by striking "; and"; by striking all in line 35; in line 36, by striking all before the period;

On page 31, following line 5, by inserting "Sec. 12. K.S.A. 2010 Supp. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in subsection (b) and (c), any records or files specified in this code concerning a juvenile may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or, if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, *prior to its repeal, or section 37 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, murder in the first degree, K.S.A. 21-3402, *prior to its repeal, or section 38 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, murder in the second degree, K.S.A. 21-3403, *prior to its repeal, or section 39 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, voluntary manslaughter, K.S.A. 21-3404, *prior to its repeal, or section 40 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, involuntary manslaughter, K.S.A. 21-3439, *prior to its repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, capital murder, K.S.A. 21-3442, *prior to its repeal, and amendments thereto*, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3502, *prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, rape, K.S.A. 21-3503, *prior to its repeal, or subsection (a) of section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, indecent liberties with a child, K.S.A. 21-3504, *prior to its repeal, or subsection (b) of section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, aggravated indecent liberties with a child, K.S.A. 21-3506, *prior to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, aggravated criminal sodomy, K.S.A. 21-3510, *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, indecent solicitation of a child, K.S.A. 21-3511, *prior to its repeal, or subsection (b) of section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, aggravated indecent solicitation of a child, K.S.A. 21-3516, *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, sexual exploitation, K.S.A. 21-3603, *prior to its repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, aggravated incest, K.S.A. 21-3608, *prior to its repeal, or subsection (a) of section 78 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, endangering a child, K.S.A. 21-3608a, *prior to its repeal, or subsection (b) of section 78 of chapter*

136 of the 2010 Session Laws of Kansas, and amendments thereto, aggravated endangering a child, K.S.A. 21-3609, prior to its repeal, or section 79 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, abuse of a child, or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

(c) *Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.*

~~(e)~~(d) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile as reflected in the court record, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the trial; and (6) the identity of the trial court. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. On and after the effective date of this act through June 30, 2011, the supreme court may impose a charge, not to exceed \$15 per case, to fund the costs of non-judicial personnel. All petitions for expungement shall be docketed in the original 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.

~~(d)~~(e) (1) After hearing, the court shall order the expungement of the records and files if the court finds that:

(A) The juvenile has reached 23 years of age or that two years have elapsed since the final discharge;

(B) since the final discharge of the juvenile, the juvenile has not been convicted of a felony or of a misdemeanor other than a traffic offense or adjudicated as a juvenile offender under the revised Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication; and

(C) the circumstances and behavior of the petitioner warrant expungement.

(2) The court may require that all court costs, fees and restitution shall be paid.

~~(e)~~(f) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. The petitioner, the court and all law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the juvenile. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and the person's designees.

~~(f)~~(g) Copies of any order made pursuant to subsection (a) or (c) shall be sent to each public officer and agency in the county having possession of any records or files ordered to be expunged. If the officer or agency fails to comply with the order within a reasonable time after its receipt, the officer or agency may be adjudged in contempt of court and punished accordingly.

~~(g)~~(h) The court shall inform any juvenile who has been adjudicated a juvenile offender of the provisions of this section.

~~(h)~~(i) Nothing in this section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the juvenile.

~~(i)~~(j) Nothing in this section shall be construed to permit or require expungement of files or records related to a child support order registered pursuant to the revised Kansas juvenile justice code.

~~(j)~~(k) Whenever the records or files of any adjudication have been expunged under the provisions of this section, the custodian of the records or files of adjudication relating to that offense shall not disclose the existence of such records or files, 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) 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;

(7) 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; or

(8) the Kansas sentencing commission.

Sec. 13. Section 254 of chapter 136 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 254. (a) (1) Except as provided in subsections (b) ~~and~~, (c) ~~and~~ (d), 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) *and* (d), 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) *and* (d), 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, prior to its repeal, or section 41 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;

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

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

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

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

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

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

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

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses:

(1) Rape as defined in *K.S.A. 21-3502, prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(2) indecent liberties with a child or aggravated indecent liberties with a child as defined in *K.S.A. 21-3503 or 21-3504, prior to their repeal, or section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(3) criminal sodomy as defined in *subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(4) aggravated criminal sodomy as defined in *K.S.A. 21-3506, prior to its repeal, or section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child as

defined in *K.S.A. 21-3510 or 21-3511, prior to their repeal, or section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(6) sexual exploitation of a child as defined in *K.S.A. 21-3516, prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(7) aggravated incest as defined in *K.S.A. 21-3603, prior to its repeal, or section 81 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(8) endangering a child or aggravated endangering a child as defined in *K.S.A. 21-3608 or 21-3608a, prior to their repeal, or section 78 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(9) abuse of a child as defined in *K.S.A. 21-3609, prior to its repeal, or section 79 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(10) capital murder as defined in *K.S.A. 21-3439, prior to its repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(11) murder in the first degree as defined in *K.S.A. 21-3401, prior to its repeal, or section 37 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(12) murder in the second degree as defined in *K.S.A. 21-3402, prior to its repeal, or section 38 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(13) voluntary manslaughter as defined in *K.S.A. 21-3403, prior to its repeal, or section 39 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(14) involuntary manslaughter as defined in *K.S.A. 21-3404, prior to its repeal, or section 40 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(15) sexual battery as defined in *K.S.A. 21-3517, prior to its repeal, or section 69 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(16) aggravated sexual battery as defined in *K.S.A. 21-3518, prior to its repeal, or section 69 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

(17) a violation of *K.S.A. 8-1567*, and amendments thereto, including any diversion for such violation;

(18) a violation of *K.S.A. 8-2,144*, and amendments thereto, including any diversion for such violation; or

(19) any conviction for any offense in effect at any time prior to ~~the effective date of this act~~ *July 1, 2011*, that is comparable to any offense as provided in this subsection.

(d) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

~~(d)~~(e) (1) 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 prosecutor and the arresting law enforcement agency. The petition shall state the:

(A) Defendant's full name;

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

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

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

(E) date of the defendant's arrest, conviction or diversion; and
 (F) identity of the convicting court, arresting law enforcement authority or diverting authority.

(2) Except as *otherwise* provided further, ~~there shall be no docket fee for filing a petition pursuant to this section by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100.~~ On and after ~~July 1, 2009 through June 30, 2010~~ April 15, 2010 through June 30, 2011, the supreme court may impose a charge, not to exceed \$10\$15 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

(3) 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)~~(f) 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;

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

~~(f)~~(g) 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. ~~20092010~~ Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

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

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

(E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;

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

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

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

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

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

(K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. ~~2009~~2010 Supp. 75-7c01 et seq., and amendments thereto;

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

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

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

~~(g)~~(h) 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)~~(i) 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.

(h)(j) 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 prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
- (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
- (8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- (10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;
- (11) the Kansas sentencing commission;
- (12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to

hold a license issued pursuant to a tribal-gaming compact;

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

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

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

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

And by renumbering sections accordingly;

Also on page 31, in line 8, by striking "and 22-4913" and inserting ", 22-4913 and 38-2312 and section 254 of chapter 136 of the 2010 Session Laws of Kansas";

On page 1, in the title, in line 3, by striking "and 22-"; in line 4, by striking "4913" and inserting ", 22-4913 and 38-2312 and section 254 of chapter 136 of the 2010 Session Laws of Kansas"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HB 2178** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2178," as follows:

"Substitute for HOUSE BILL NO. 2178

By Committee on Federal and State Affairs

"AN ACT concerning licenses and permits; relating to nonresident military spouses."; and the substitute bill be passed.

(**Sub. HB 2178** was thereupon introduced and read by title.)

Committee on **Local Government** recommends **SB 101** be amended by substituting a new bill to be designated as "HOUSE Substitute for SENATE BILL NO. 101," as follows:

"HOUSE Substitute for SENATE BILL NO. 101

By Committee on Local Government

"AN ACT concerning cities and counties; relating to residential fire protection sprinkler systems; amending K.S.A. 2010 Supp. 12-16,219 and repealing the existing section."; and the substitute bill be passed.

(**H. Sub. for SB 101** was thereupon introduced and read by title.)

The House stood at ease until the sound of the gavel.

Speaker pro tem Vickrey called the House to order.

REPORTS OF STANDING COMMITTEES

Committee on **Taxation** recommends **SB 10, SB 198** be passed.

Committee on **Taxation** recommends **HB 2392** be passed as amended on page 1, by striking all in lines 28 through 36;

By striking all on page 2;

On page 3, by striking all in lines 1 through 3;

And by renumbering sections accordingly;

Also on page 3, in line 17, by striking "and K.S.A. 2010 Supp. 75-6202 are" and inserting "is";

On page 1, in the title, in line 3, by striking "and K.S.A. 2010 Supp. 75-6202"; in line 4, by striking "sections" and inserting "section"; and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

HB 2371 reported correctly engrossed March 16, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

