

Journal of the House

SIXTY-FIFTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, May 14, 2015, 11:00 a.m.

The House met pursuant to adjournment with Speaker Merrick in the chair.

The roll was called with 120 members present.

Rep. O'Brien was excused on verified illness.

Reps. Claeys, Goico, Kelley and Sawyer were excused on excused absence by the Speaker.

Present later: Reps. Kelley and O'Brien.

Prayer by Chaplain Brubaker:

Lord God,
Thank You for this another day –
one of two, from what I hear,
that are going to be long ones.
Help our leaders today to apply all
that they learned in kindergarten:
to share everything;
play fair;
don't hit people;
clean up their own mess;
say they are sorry when they hurt somebody;
live a balanced life;
take a nap in the afternoon;
flush – oh, that doesn't apply here...
well, maybe it does.
Anyway, help them to follow Your Word where it says,
“If any of you lacks wisdom,
he should ask God,
who gives generously to all
without finding fault, and it will be given to him.”
This I pray in your Son's Name,
Amen.
(James 1:5)

The Pledge of Allegiance was led by Rep. Sutton.

INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Bradford are spread upon the Journal:

I am honored today to be able to recognize a fellow member of my District and the Leavenworth Community. John Reichley is a columnist with the "Leavenworth Times" newspaper, the oldest newspaper in the State of Kansas. For 30 years, John has written articles twice weekly on subjects of military and community interests.

John Reichley is a stalwart member of the Leavenworth Community. His involvement in community activities is far-reaching across many venues and interests. He is a tour guide for the Kansas City World War I Museum as well as a tour guide for the Fort Leavenworth Military Historical Museum.

He is a renowned historian on military issues and a sought after speaker and lecturer on all subjects related to military history.

In 2013 John was elected "Citizen of the Year" for Leavenworth County.

It gives me great pleasure today to present this commendation to John Reichley, and to know him as a fellow warrior and a personal friend.

Rep. Bradford presented a framed House certificate to Mr. Reichley.

COMMITTEE ASSIGNMENT CHANGE

Speaker Merrick announced the appointment of Rep. Burroughs to replace Rep. Sawyer on Committee on Taxation on May 14 and 15 only.

On motion of Rep. Vickrey, the House recessed until 2:00 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker pro tem Mast in the chair.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Vickrey, 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 2104**, **HB 2154**, **Sub HB 2159**, **HB 2106**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2154** submits the following report:

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

On page 1, in line 7, before "Section" by inserting "New";

On page 7, following line 34, by inserting:

"Sec. 5. K.S.A. 2014 Supp. 12-4415 is hereby amended to read as follows: 12-4415. (a) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the city attorney shall consider at

least the following factors among all factors considered:

- (1) The nature of the crime charged and the circumstances surrounding it;
- (2) any special characteristics or circumstances of the defendant;
- (3) whether the defendant is a first-time offender of an alcohol related offense and if the defendant has previously participated in diversion, according to the certification of the division of vehicles of the state department of revenue;
- (4) whether there is a probability that the defendant will cooperate with and benefit from diversion;

(5) whether there is a probability that the defendant committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America;

(6) if subsection (a)(5) applies to the defendant, whether there is a probability that the defendant will cooperate with and benefit from inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard with the consent of the defendant, as a condition of diversion;

~~(5)~~ (7) whether the available diversion program is appropriate to the needs of the defendant;

- ~~(6)~~ (8) the impact of the diversion of the defendant upon the community;
- ~~(7)~~ (9) recommendations, if any, of the involved law enforcement agency;
- ~~(8)~~ (10) recommendations, if any, of the victim;
- ~~(9)~~ (11) provisions for restitution; and
- ~~(10)~~ (12) any mitigating circumstances.

(b) A city attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an alcohol related offense if the defendant:

- (1) Has previously participated in diversion of an alcohol related offense;
- (2) has previously been convicted of or pleaded nolo contendere to an alcohol related offense in this state or has previously been convicted of or pleaded nolo contendere to a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto, or of a law of another state, or of a political subdivision thereof, which prohibits the acts prohibited by those statutes; or
- (3) during the time of the alleged alcohol related offense was involved in a motor vehicle accident or collision resulting in personal injury or death.

(c) "Major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A. 2014 Supp. 21-6630, and amendments thereto.

Sec. 6. K.S.A. 2014 Supp. 21-6630 is hereby amended to read as follows: 21-6630.

(a) Upon motion of the defendant at the time of conviction or prior to sentencing, a defendant convicted of a criminal offense may assert that such defendant committed such offense as a result of ~~mental illness~~ an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder, stemming from or traumatic brain injury, connected to service in a combat zone in the United States armed forces of the United States of America. The court shall hold a hearing to determine whether the defendant:

- (1) Has served in the armed forces of the United States of America in a combat

zone, as defined in section 112 of the federal internal revenue code of 1986. Proof of such service shall consist of a certification by the executive director of the Kansas commission on veterans affairs in accordance with K.S.A. 73-1209, and amendments thereto;

~~(2) has separated from such armed forces with an honorable discharge or general discharge under honorable conditions;~~

~~(3) suffers from mental illness injury; and~~

~~(4) (3) such mental illness was caused or exacerbated by events occurring during such defendant's service in a combat zone injury was connected to service in a combat zone in the armed forces of the United States of America.~~

(b) (1) Except as provided in subsection (b)(2), if the court determines that such defendant meets the criteria provided in subsection (a) and such defendant's current crime of conviction and criminal history fall within a presumptive nonprison category under the sentencing guidelines, the court may order such defendant to undergo inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the federal veterans' administration United States department of veterans affairs or the Kansas national guard ~~with the consent of the defendant, if the defendant is eligible for and consents to such treatment.~~

(2) If the court determines that such defendant meets the criteria provided in subsection (a), ~~such defendant is ineligible for treatment pursuant to subsection (b)(1) and such defendant meets the requirements established in K.S.A. 2014 Supp. 21-6824, and amendments thereto, the provisions of K.S.A. 2014 Supp. 21-6824, and amendments thereto, shall apply, except that in lieu of requiring such defendant to participate in a certified drug abuse treatment program as provided in K.S.A. 2014 Supp. 75-52,144, and amendments thereto, the court may order such defendant to undergo drug abuse treatment from any treatment facility or program operated by the United States department of defense, the federal veterans' administration or the Kansas national guard with the consent of the defendant.~~

(c) Nothing in this section shall be construed to limit the court's authority to:

(1) Order any other sanction pursuant to K.S.A. 2014 Supp. 21-6602 or 21-6604, and amendments thereto;

(2) order a mental examination pursuant to K.S.A. 22-3429, and amendments thereto;

(3) order commitment pursuant to K.S.A. 22-3430 et seq., and amendments thereto; or

(4) determine that a person is a mentally ill person subject to involuntary commitment for care and treatment as defined in K.S.A. 59-2946, and amendments thereto.

(d) As used in this section:

(1) ~~"Mental illness" means a mental disorder manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment; and~~

~~(2) "Major depressive disorder" and "post-traumatic stress disorder" means posttraumatic stress disorder as mean the same as such terms are defined in the diagnostic and statistical manual of mental disorders, fifth edition (DSM-5, 2013), of~~

the American psychiatric association and that occurred as a result of events during the person's defendant's service in one or more combat zones.

(2) "Polytrauma" means injury to multiple body parts and organ systems that occurred as a result of events during the defendant's service in one or more combat zones.

(3) "Traumatic brain injury" means injury to the brain caused by physical trauma that occurred as a result of events during the defendant's service in one or more combat zones.

(e) This section shall be a part of and supplemental to the Kansas criminal code.

Sec. 7. K.S.A. 2014 Supp. 21-6815 is hereby amended to read as follows: 21-6815.

(a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines unless the judge finds substantial and compelling reasons to impose a departure sentence. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of ~~subsection (b)~~ of K.S.A. 2014 Supp. 21-6817(b), and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of subsections (c)(3) and (e), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor may be considered when it is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(F) The offender committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America. As used in this subsection, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A. 2014 Supp. 21-6630, and amendments thereto.

(2) Subject to the provisions of subsection (c)(3), the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the

offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.

(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to:

- (i) Commit any person felony;
- (ii) assist in avoiding detection or apprehension for commission of any person felony; or
- (iii) attempt, conspire or solicit, as defined in K.S.A. 2014 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, to commit any person felony.

That the defendant did not know the age of the individual under 16 years of age shall not be a consideration.

(F) The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

- (i) "Crime of extreme sexual violence" is a felony limited to the following:
 - (a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;
 - (b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization;
 - (c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age;
 - (d) aggravated human trafficking, as defined in ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age; or
 - (e) commercial sexual exploitation of a child, as defined in K.S.A. 2014 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age.
- (ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:
 - (a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or
 - (b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.
 - (iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the

capacity of the person to control impulses to commit crimes of extreme sexual violence.

(G) The defendant was incarcerated during the commission of the offense.

(H) The crime involved two or more participants in the criminal conduct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor.

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(d) In determining aggravating or mitigating circumstances, the court shall consider:

- (1) Any evidence received during the proceeding;
- (2) the presentence report;
- (3) written briefs and oral arguments of either the state or counsel for the defendant; and
- (4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

(e) Upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court may consider such mitigation in determining whether substantial and compelling reasons for a departure exist. In considering this mitigating factor, the court may consider the following:

- (1) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the prosecutor's evaluation of the assistance rendered;
- (2) the truthfulness, completeness and reliability of any information or testimony provided by the defendant;
- (3) the nature and extent of the defendant's assistance;
- (4) any injury suffered, or any danger or risk of injury to the defendant or the defendant's family resulting from such assistance; and
- (5) the timeliness of the defendant's assistance.

Sec. 8. K.S.A. 2014 Supp. 22-2908 is hereby amended to read as follows: 22-2908.

(a) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the county or district attorney shall consider at least the following factors among all factors considered:

- (1) The nature of the crime charged and the circumstances surrounding it;
- (2) any special characteristics or circumstances of the defendant;
- (3) whether the defendant is a first-time offender and if the defendant has previously participated in diversion, according to the certification of the Kansas bureau of investigation or the division of vehicles of the department of revenue;
- (4) whether there is a probability that the defendant will cooperate with and benefit from diversion;
- (5) whether the available diversion program is appropriate to the needs of the defendant;

(6) whether there is a probability that the defendant committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America;

(7) if subsection (a)(6) applies to the defendant, whether there is a probability that the defendant will cooperate with and benefit from inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard with the consent of the defendant, as a condition of diversion:

- ~~(6)~~ (8) the impact of the diversion of the defendant upon the community;
- ~~(7)~~ (9) recommendations, if any, of the involved law enforcement agency;
- ~~(8)~~ (10) recommendations, if any, of the victim;
- ~~(9)~~ (11) provisions for restitution; and
- ~~(10)~~ (12) any mitigating circumstances.

(b) A county or district attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint if:

(1) The complaint alleges a violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto, and the defendant: (A) Has previously participated in diversion upon a complaint alleging a violation of that statute or an ordinance of a city in this state which prohibits the acts prohibited by that statute; (B) has previously been convicted of or pleaded nolo contendere to a violation of that statute or a violation of a law of another state or of a political subdivision of this or any other state, which law prohibits the acts prohibited by that statute; or (C) during the time of the alleged violation was involved in a motor vehicle accident or collision resulting in personal injury or death;

(2) the complaint alleges that the defendant committed a class A or B felony or for crimes committed on or after July 1, 1993, an off-grid crime, a severity level 1, 2 or 3 felony for nondrug crimes, a drug severity level 1 or 2 felony for drug crimes committed on or after July 1, 1993, but prior to July 1, 2012, or a drug severity level 1, 2 or 3 felony committed on or after July 1, 2012; or

(3) the complaint alleges a domestic violence offense, as defined in K.S.A. 2014 Supp. 21-5111, and amendments thereto, and the defendant has participated in two or more diversions in the previous five year period upon complaints alleging a domestic violence offense.

(c) A county or district attorney may enter into a diversion agreement in lieu of further criminal proceedings on a complaint for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, if such diversion carries the same penalties as the conviction for the corresponding violations. If the defendant has previously participated in one or more diversions for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, then each subsequent diversion shall carry the same penalties as the conviction for the corresponding violations.

(d) As used in this section, "major depressive disorder," "polytrauma," "post-traumatic stress disorder" and "traumatic brain injury" shall mean the same as such terms are defined in K.S.A. 2014 Supp. 21-6630, and amendments thereto.

Sec. 9. K.S.A. 2014 Supp. 48-3406 is hereby amended to read as follows: 48-3406.

(a) For the purposes of this section:

(1) "Licensing body" ~~has the meaning ascribed thereto in K.S.A. 74-146, and amendments thereto~~ means an official, agency, board or other entity of the state which authorizes individuals to practice a profession in this state and issues a license, registration, certificate, permit or other authorization to an individual so authorized;

(2) "military-service servicemember" means a member of the army, navy, marine corps, air force, air or army national guard of any state, coast guard or any branch of the military reserves of the United States; and

(3) ~~"military service member" means a member who entered into military service and separated from such military service with an honorable discharge or a general discharge under honorable conditions; and~~

(4) "military spouse" means the spouse of an individual who is currently in active service in any branch of the armed forces of the United States.

(b) Notwithstanding any other provision of law, any licensing body shall:

(1) Upon submission of a completed application, issue a license, registration or certification to a nonresident military spouse, so that the nonresident military spouse may lawfully practice the person's occupation; and

(2) upon submission of a completed application within six months following release from military service, issue a license, registration or certification to a military servicemember with an honorable discharge so that the military servicemember may lawfully practice the ~~person's~~ military servicemember's occupation.

(c) A military servicemember with an honorable discharge or nonresident military spouse shall receive a license, registration or certification under subsection (b) of this section:

(1) Pursuant to applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state for the profession license, registration or certification within 60 days from the date a complete application was submitted; or

(2) if the professional practice act does not have licensure, registration or certification by endorsement, reinstatement or reciprocity statutes, then, at the time of application, the military servicemember or nonresident military spouse:

(A) Holds a current license, registration or certification in another state, district or territory of the United States with licensure, registration or certification requirements that the licensing body determines are equivalent to those established by the licensing body of this state;

(B) has not committed an act in any jurisdiction that would have constituted grounds for the limitation, suspension or revocation or that the applicant has never been censured or had other disciplinary action taken or had an application for licensure, registration or certification denied or refused to practice an occupation for which the military servicemember or nonresident military spouse seeks licensure, registration or certification;

(C) has not been disciplined by a licensing, registering, certifying or other credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding conducted by a licensing, registering, certifying or other credentialing entity in another jurisdiction nor has surrendered their membership on any professional staff in any professional association or society or faculty for another state or ~~licensing~~ jurisdiction while under investigation

or to avoid adverse action for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action in a Kansas practice act;

(D) pays any fees required by the licensing body of this state; and

(E) submits with the application a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate. Upon receiving such affidavit, the licensing body shall issue the license, registration or certification within 60 days from the date a complete application was submitted, to the military servicemember or nonresident military spouse on a probationary basis, but may revoke the license, registration or certification at any time if the information provided in the application is found to be false. Any probationary license issued under this ~~section~~ subsection to a military servicemember or nonresident military spouse shall not exceed ~~three~~ six months.

(d) Any person who has not been in the active practice of the occupation during the two years preceding the application for which the applicant seeks a license, registration or certification may be required to complete such additional testing, training, mentoring, monitoring or education as the Kansas licensing body may deem necessary to establish the applicant's present ability to practice with reasonable skill and safety.

(e) A nonresident military spouse licensed, registered or certified under this section shall be entitled to the same rights and subject to the same obligations as are provided by the licensing body for Kansas residents, except that revocation or suspension of a nonresident military spouse's license, registration or certificate in the nonresident military spouse's state of residence or any jurisdiction in which the nonresident military spouse held ~~license~~ a license, registration or certificate shall automatically cause the same revocation or suspension of such nonresident military spouse's license, registration or certificate in Kansas. No hearing shall be granted to a nonresident ~~licensee~~ military spouse where ~~the~~ such nonresident military spouse's license, registration or certificate is subject to such automatic revocation or suspension except for the purpose of establishing the fact of revocation or suspension of the nonresident military spouse's license, registration or certificate by the nonresident military spouse's state of residence.

(f) In the event the licensing body determines that the license, registration or certificate currently held by the military servicemember or nonresident military spouse under subsection (c)(2)(A) is not equivalent to those issued by the licensing body of this state, the licensing body may issue a temporary permit for a limited period of time to allow the military servicemember or nonresident military spouse to lawfully practice the ~~person's military servicemember's or nonresident military spouse's~~ occupation while completing any specific requirements that are required in this state for licensure, registration or certification that ~~were~~ was not required in the state, district or territory of the United States in which the military servicemember or nonresident military spouse was licensed ~~or, registered, certified or otherwise credentialed~~.

(g) A licensing ~~board~~ body may grant ~~certification~~, licensure, registration, certification or a temporary permit to any person who meets the requirements under this section but was separated from such military service under less than honorable conditions or with a general discharge under honorable conditions.

(h) Each licensing body may adopt rules and regulations necessary to implement and carry out the provisions of this section.

(i) This section shall not apply to the practice of law or the regulation of attorneys

pursuant to K.S.A. 7-103, and amendments thereto.";

Also on page 7, in line 35, after "Supp." by inserting "12-4415, 21-6630, 21-6815, 22-2908, 48-3406 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 2 by striking "military matters" and inserting "servicemembers and veterans of the United States armed forces; relating to private sector employment; postsecondary educational institution tuition; diversions and sentencing; servicemember and military spouse expedited professional credentialing"; in line 3, after "Supp." by inserting "12-4415, 21-6630, 21-6815, 22-2908, 48-3406 and"

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

RALPH OSTMEYER

JAKE LATURNER

OLETHA FAUST-GOUDEAU

Conferees on part of Senate

MARIO GOICO

LESLIE OSTERMAN

HAROLD LANE

Conferees on part of House

On motion of Rep. Osterman, the conference committee report on **HB 2154** was adopted.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, W. Carpenter, Clark, Clayton, Concannon, Corbet, Curtis, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Hutchins, Hutton, Jennings, Johnson, D. Jones, K. Jones, Kahrs, Kelley, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lewis, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, O'Brien, Osterman, Ousley, Patton, Pauls, Peck, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman, Ryckman Sr., Scapa, Schroeder, Schwab, Schwartz, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Claeys, Goico, Huebert, Sawyer.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2159** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on

conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments (Corrected), as follows:

On page 3, following line 37, by inserting:

"Sec. 2. K.S.A. 2014 Supp. 8-1015 is hereby amended to read as follows: 8-1015.

(a) (1) Except as provided in subsection (a)(2), whenever a person's driving privileges have been suspended for one year as provided in ~~subsection (a) of K.S.A. 8-1014(a)~~, and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(2) Whenever a person's driving privileges have been suspended for one year as provided in ~~subsection (a)(1) of K.S.A. 8-1014(a)(1)~~, and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided by ~~subsections (a)(1), (2), (3) and (4) of K.S.A. 8-292(a)(1), (2), (3) and (4)~~, and amendments thereto; and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.

(3) Except as provided in subsection (a)(4), whenever a person's driving privileges have been suspended for one year as provided in ~~subsection (b) of K.S.A. 8-1014(b)~~, and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(4) Whenever a person's driving privileges have been suspended for one year as provided in ~~subsection (b)(2)(A) of K.S.A. 8-1014(b)(2)(A)~~, and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided by ~~subsections (a)(1), (2), (3) and (4) of K.S.A. 8-292(a)(1), (2), (3) and (4)~~, and amendments thereto; and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.

(5) The division shall assess an application fee of \$100 for a person to apply to modify the suspension to restricted ignition interlock status.

(6) The division shall approve the request for such restricted license unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court. If the request is approved, upon receipt of proof of the installation of such device, the division shall issue a copy of the order imposing such restrictions on the person's driving privileges and such order shall be carried by the person at any time the person is operating a motor vehicle on the highways of this state. Except as provided in K.S.A. 8-1017, and amendments thereto, if such person is convicted of a violation of the restrictions, such person's driving

privileges shall be suspended for an additional year, in addition to any term of suspension or restriction as provided in ~~subsection (a) or (b)~~ of K.S.A. 8-1014(a) or (b), and amendments thereto.

(b) (1) Except as provided in subsection (b)(2), when a person has completed the suspension pursuant to ~~subsection (b)(1)(A)~~ of K.S.A. 8-1014(b)(1)(A), and amendments thereto, the division shall restrict the person's driving privileges for 180 days to driving only a motor vehicle equipped with an ignition interlock device.

(2) When a person has completed the suspension pursuant to ~~subsection (b)(1)(A)~~ of K.S.A. 8-1014(b)(1)(A), and amendments thereto, the division shall restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device if the records maintained by the division indicate that such person has previously: (A) Been convicted of a violation of K.S.A. 8-1599, and amendments thereto; (B) been convicted of a violation of K.S.A. 41-727, and amendments thereto; (C) been convicted of any violations listed in ~~subsection (a)~~ of K.S.A. 8-285(a), and amendments thereto; (D) been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period; or (E) had such person's driving privileges revoked, suspended, canceled or withdrawn.

(c) Except as provided in subsection (b), when a person has completed the suspension pursuant to ~~subsection (a) or (b)~~ of K.S.A. 8-1014(a) or (b), and amendments thereto, the division shall restrict the person's driving privileges pursuant to ~~subsection (a) or (b)~~ of K.S.A. 8-1014(a) or (b), and amendments thereto, to driving only a motor vehicle equipped with an ignition interlock device. Upon restricting a person's driving privileges pursuant to this subsection, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

(d) Whenever an ignition interlock device is required by law, such ignition interlock device shall be approved by the division and maintained at the person's expense. Proof of the installation of such ignition interlock device, for the entire period required by the applicable law, shall be provided to the division before the person's driving privileges are fully reinstated.

(e) Except as provided further, any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business. The provisions of this subsection shall not apply to any person whose driving privileges have been restricted for the remainder of the one-year suspension period as provided in subsection (a)(1) or (a)(3).

(f) Upon expiration of the period of time for which restrictions are imposed pursuant to this section, the licensee may apply to the division for the return of any license previously surrendered by the licensee. If the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's driving privileges have been suspended or revoked prior to expiration.

(g) Any person who has had the person's driving privileges suspended, restricted or revoked pursuant to ~~subsection (a), (b) or (c)~~ of K.S.A. 8-1014(a), (b) or (c), prior to the amendments by section 16 of chapter 172 of the 2012 Session Laws of Kansas and

section 14 of chapter 105 of the 2011 Session Laws of Kansas, may apply to the division to have the suspension, restriction or revocation penalties modified in conformity with the provisions of ~~subsection (a), (b) or (c)~~ of K.S.A. 8-1014 (a), (b) or (c), and amendments thereto. The division shall assess an application fee of \$100 for a person to apply to modify the suspension, restriction or revocation penalties previously issued. The division shall modify the suspension, restriction or revocation penalties, unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(h) The division shall remit all application fees collected pursuant to subsections (a) and (g) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such moneys to the division of vehicles operating fund until an aggregate amount of \$100,000 is credited to the division of vehicles operating fund each fiscal year. On and after an aggregate amount of \$100,000 is credited to such fund each fiscal year, the entire amount of such remittance shall be credited to the community corrections supervision fund created by K.S.A. 2014 Supp. 75-52,113, and amendments thereto. The application fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such application. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.;

On page 17, in line 19, after the first comma by inserting "8-1015,";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after "fund;" by inserting "authorized restrictions of driving privileges, ignition interlock device;"; in line 4, after "8-241," by inserting "8-1015,";

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

JEFF KING

GREG SMITH

PAT PETTEY

Conferees on part of Senate

JOHN E. BARKER

CHARLES MACHEERS

JOHN CARMICHAEL

Conferees on part of House

On motion of Rep. Barker, the conference committee report on **Sub HB 2159** was adopted.

On roll call, the vote was: Yeas 84; Nays 38; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alford, Anthimides, Ballard, Barker, Barton, Becker, Billinger, Bradford, Bridges, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, Clark, Clayton, Concannon, Corbet, Curtis, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Estes, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gonzalez, Grosseode, Hawkins, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Huebert, Hutton, Jennings, Johnson, D. Jones, Kelly, Kleeb, Lewis, Lunn, Lusker, Macheers, Mason, McPherson, Merrick, Moxley, O'Brien, Osterman,

Ousley, Patton, Pauls, Phillips, Powell, Proehl, Rooker, Rubin, Ryckman, Ryckman Sr., Schwab, Schwartz, Sloan, Smith, Sutton, Swanson, Thompson, Todd, Vickrey, Waymaster, Williams, Wilson.

Nays: Alcalá, Boldra, Bollier, Bruchman, Brunk, Burroughs, W. Carpenter, Esau, Ewy, Hedke, Hemsley, Henderson, Hutchins, K. Jones, Kahrs, Kelley, Kiegerl, Kuether, Lane, Lusk, Mast, Peck, Read, Rhoades, Ruiz, Scapa, Schroeder, Seiwert, Suellentrop, Thimesch, Tietze, Trimmer, Victors, Ward, Whipple, Whitmer, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Claeys, Goico, Sawyer.

EXPLANATION OF VOTE

MR. SPEAKER: While I supported **Sub HB 2159** as it passed out of the House, I am unable to support this conference committee report. I appreciate that this bill moves the waiting period for expungement of a first time DUI diversion or conviction from seven years to five years, but I am hesitant to support the Senate's position of moving from the current law of seven years back to 10 years on subsequent offenses. A compromise would have been to leave subsequent offenses at the current seven years. I vote NO on the Conference Committee Report for **Sub HB 2159**. – JACK THIMESCH

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2233** 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 5, in line 23, by striking "November 1," and inserting "the first week of November";

On page 6, in line 18, by striking "implementation"; in line 20, by striking "implementation"; in line 25, by striking "implementation"; in line 27, by striking "implementation"; in line 29, by striking "implementation"; in line 33, by striking "implementation"; in line 42, by striking "implementation";

On page 7, in line 7, by striking "implementation"; in line 9, after "submit" by inserting "any request for an extension of time to file"; also in line 9, after "plan" by inserting ", if necessary, an interim state plan or a final state plan"; in line 10, before "four" by inserting ". Any interim or final state plan shall be submitted by the secretary no less than"; also in line 10, after "deadline" by inserting ", or extended submission deadline,"; in line 11, before "if" by inserting ". Any final state plan submitted to the environmental protection agency may only be submitted"; in line 21, by striking "implementation"; in line 25, by striking "implementation"; in line 28, by striking "implementation";

On page 8, in line 32, by striking the third "the";

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

ROB OLSON

MIKE PETERSEN

MARCI FRANCISCO

Conferees on part of Senate

DENNIS HEDKE
 KEN CORBET
 ANNIE KUETHER

Conferees on part of House

On motion of Rep. Hedke, the conference committee report on **HB 2233** was adopted.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, W. Carpenter, Clark, Clayton, Concannon, Corbet, Curtis, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Huebert, Hutchins, Hutton, Jennings, Johnson, K. Jones, Kahrs, Kelley, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lewis, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, O'Brien, Osterman, Ousley, Patton, Pauls, Peck, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman, Ryckman Sr., Scapa, Schroeder, Schwab, Schwartz, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore.

Nays: D. Jones.

Present but not voting: None.

Absent or not voting: Claeys, Goico, Sawyer.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 91** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed as House Substitute for Senate Bill No. 91, as follows:

On page 2, in line 26, by striking "to meet the new" and inserting "or committed to be incurred as a result of compliance with the"; in line 28, by striking "as in effect on December 31, 2015" and inserting "prior to its repeal"; in line 31, after the period by inserting "The commission shall allow affected utilities to recover reasonable costs incurred as a result of meeting the voluntary 20% goal in K.S.A. 2014 Supp. 66-1256, and amendments thereto.";

On page 6, by striking all in lines 26 and 27; in line 28, by striking the first "or"; in line 32, after "for" by inserting "such"; in line 33, by striking all before "when";

On page 7, following line 4, by inserting:

"Sec. 5. K.S.A. 2014 Supp. 79-223 is hereby amended to read as follows: 79-223.

(a) It is the purpose of this section to promote, stimulate, foster and encourage new investments in commercial and industrial machinery and equipment in the state of Kansas, to contribute to the economic recovery of the state, to enhance business opportunities in the state, to encourage the location of new businesses and industries in the state as well as the retention and expansion of existing businesses and industries and

to promote the economic stability of the state by maintaining and providing employment opportunities, thereby contributing to the general welfare of the citizens of the state, by exempting from property taxation all newly purchased or leased commercial and industrial machinery and equipment, including machinery and equipment transferred into this state for the purpose of expanding an existing business or for the creation of a new business.

(b) The following described property, to the extent specified by this section, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. Commercial and industrial machinery and equipment acquired by qualified purchase or lease made or entered into after June 30, 2006, as the result of a bona fide transaction not consummated for the purpose of avoiding taxation.

Second. Commercial and industrial machinery and equipment transported into this state after June 30, 2006, for the purpose of expanding an existing business or creation of a new business.

(c) Any purchase, lease or transportation of commercial and industrial machinery and equipment consummated for the purpose of avoiding taxation shall subject the property to the penalty provisions of K.S.A. 79-1422 and 79-1427a, and amendments thereto. The county appraiser shall not reclassify any property that is properly classified for property tax purposes within subclass (5) of class 2 of section 1 of article 11 of the constitution of the state of Kansas.

(d) As used in this section:

(1) "Acquired" shall not include the transfer of property pursuant to an exchange for stock securities, or the transfer of assets from one going concern to another due to a merger, reorganization or other consolidation;

(2) "commercial and industrial machinery and equipment" means property classified for property tax purposes within subclass (5) of class 2 of section 1 of article 11 of the constitution of the state of Kansas, but shall not include any electric generation facility or addition to an electric generation facility that is used predominately to produce and generate electricity utilizing renewable energy resources or technologies as defined in K.S.A. 79-201, and amendments thereto;

(3) "qualified lease" means a lease of commercial and industrial machinery and equipment for not less than 30 days for fair and valuable consideration where such machinery and equipment is physically transferred to the lessee to be used in the lessee's business or trade; and

(4) "qualified purchase" means a purchase of commercial and industrial machinery and equipment for fair and valuable consideration where such machinery and equipment is physically transferred to the purchaser to be used in the purchaser's business or trade.

(e) The secretary of revenue is hereby authorized to adopt rules and regulations to administer the provisions of this section.";

On page 8, in line 1, after "electricity" by inserting "at wholesale only, has no retail customers and is"; in line 5, by striking all after "thereto"; in line 6, by striking all before the period; in line 14, after "79-201" by inserting ", 79-223";

And by renumbering sections accordingly;

On page 1, in the title, in line 6, after "79-201" by inserting ", 79-223";

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

DENNIS HEDKE

KEN CORBET

Conferees on part of House

ROB OLSON

MIKE PETERSEN

Conferees on part of Senate

On motion of Rep. Hedke, the conference committee report on **H Sub for SB 91** was adopted.

On roll call, the vote was: Yeas 105; Nays 16; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alford, Anthimides, Barker, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, B. Carpenter, W. Carpenter, Clark, Clayton, Concannon, Corbet, Curtis, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Huebert, Hutchins, Hutton, Jennings, Johnson, D. Jones, K. Jones, Kahrs, Kelley, Kelly, Kiegerl, Kleeb, Lewis, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, O'Brien, Osterman, Ousley, Patton, Pauls, Peck, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ryckman, Ryckman Sr., Scapa, Schroeder, Schwartz, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Todd, Trimmer, Vickrey, Victors, Waymaster, Whipple, Whitmer, Williams, Wolfe Moore.

Nays: Alcalá, Ballard, Bridges, Carlin, Carmichael, Henderson, Henry, Highberger, Houston, Kuether, Lane, Ruiz, Tietze, Ward, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Claeys, Goico, Sawyer, Schwab.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Macheers, the House concurred in Senate amendments to **HB 2106**, AN ACT concerning securities; relating to the Kansas uniform securities act; criminal penalties; fees; criminal procedure; amending K.S.A. 17-12a204 and K.S.A. 2014 Supp. 17-12a508 and 17-12a601 and repealing the existing sections; also repealing K.S.A. 2014 Supp. 17-12a601a.

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

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, W. Carpenter, Clark, Clayton, Concannon, Corbet, Curtis, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Finney, Francis, Frownfelter, Gallagher, Garber, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Huebert, Hutchins, Hutton, Jennings, Johnson, D. Jones, K. Jones, Kahrs, Kelley, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lewis, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, O'Brien,

Osterman, Ousley, Patton, Pauls, Peck, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman, Ryckman Sr., Scapa, Schroeder, Schwartz, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Claeys, Goico, Sawyer, Schwab.

On motion of Rep. Vickrey, the House adjourned until 9:00 a.m., Friday, May 15, 2015.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

