

# Journal of the Senate

FIFTY-NINTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Friday, April 28, 2006—9:30 a.m.

The Senate was called to order by President Stephen Morris.

The roll was called with forty senators present.

Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

In the book of James we read that “Elijah was a man just like us. He prayed earnestly that it would not rain, and it did not rain on the land for three and a half years. Again he prayed, and the heavens gave rain, and the earth produced its crops.”  
(James 5:17-18)

I don't measure up to Elijah,  
And I don't want to complain,  
But there are places within our state  
Which desperately need some rain.

Elijah was a man like us,  
And You answered his prayer.  
Please send the dry places showers  
Because I know You really care.

As for our business here,  
Please provide us with a solution  
To the major issues we face  
along with the resolutions.

I thank You in advance for Your answer,  
I know if it is Your will;  
Though it may not satisfy all...  
It will most of our questions fulfill.

I pray in the name of Jesus Christ,

AMEN

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and resolution were referred to Committee as indicated:

Committee of the Whole: **SB 601; SR 1846.**

## REFERRAL OF APPOINTMENTS

The following appointment made by the Governor and submitted to the senate for confirmation, was referred to Committee as indicated:

*Juvenile Justice Authority, Commissioner:*

Don Jordan, effective upon the date of confirmation by the Senate to serve at the pleasure of the Governor.

(Judiciary)

#### **CHANGE OF REFERENCE OF APPOINTMENT**

The President withdrew the appointment of Don Jordan, Juvenile Justice Authority, Commissioner, from the Committee on Judiciary and referred the appointment to the Confirmation Oversight Committee.

#### **MESSAGE FROM THE GOVERNOR**

April 26, 2006

*Message to the Senate of the State of Kansas:*

Enclosed herewith is Executive Order No. 2006-05 for your information.

Kathleen Sebelius  
Governor

The President announced Executive Order No. 06-05, creating the Kansas Interagency Council on Abuse, Neglect and Exploitation ("Council") with specified purposes and charges, is on file in the office of the Secretary of Senate and is available for review at any time.

#### **MESSAGE FROM THE HOUSE**

Announcing adoption of **HCR 5037**.

The House accedes to the request of the Senate for a conference on **HB 2541** and has appointed Representatives Edmonds, Siegfried and Burroughs as second conferees on the part of the House.

The House adopts the conference committee report on **SB 434**.

The House adopts the conference committee report on **HB 2916**.

The House adopts the conference committee report on **HB 3005**.

The House concurs in Senate amendments to **HB 2432** and requests the Senate to return the bill.

#### **INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

**HCR 5037** was thereupon introduced and read by title.

#### **ORIGINAL MOTION**

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 434; Sub HB 2706; HB 2893**.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 434**, submits the following report:

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

On page 1, following line 16, by inserting:

"Section 1. K.S.A. 2005 Supp. 75-5220 is hereby amended to read as follows: 75-5220.

(a) Except as provided in subsection (d), within three *business* days of receipt of the notice provided for in K.S.A. 75-5218 and amendments thereto, the secretary of corrections shall notify the sheriff having such offender in custody to convey such offender immediately to the department of corrections reception and diagnostic unit or if space is not available at such facility, then to some other state correctional institution until space at the facility is available, except that, in the case of first offenders who are conveyed to a state correctional institution other than the reception and diagnostic unit, such offenders shall be segregated from the inmates of such correctional institution who are not being held in custody at such

institution pending transfer to the reception and diagnostic unit when space is available therein. The expenses of any such conveyance shall be charged against and paid out of the general fund of the county whose sheriff conveys the offender to the institution as provided in this subsection.

(b) Any female offender sentenced according to the provisions of K.S.A. 75-5229 and amendments thereto shall be conveyed by the sheriff having such offender in custody directly to a correctional institution designated by the secretary of corrections, subject to the provisions of K.S.A. 75-52,134 and amendments thereto. The expenses of such conveyance to the designated institution shall be charged against and paid out of the general fund of the county whose sheriff conveys such female offender to such institution.

(c) Each offender conveyed to a state correctional institution pursuant to this section shall be accompanied by the record of the offender's trial and conviction as prepared by the clerk of the district court in accordance with K.S.A. 75-5218 and amendments thereto.

(d) If the offender in the custody of the secretary is a juvenile, as described in K.S.A. 38-16,111, and amendments thereto, such juvenile shall not be transferred to the state reception and diagnostic center until such time as such juvenile is to be transferred from a juvenile correctional facility to a department of corrections institution or facility.”;

And by renumbering the remaining sections accordingly;

On page 5, in line 25, after “21-4714”, by inserting “, 75-5220”;

In the title, in line 12, after “to”, by inserting “time limits for transfer of certain offenders to reception and diagnostic unit;”; in line 13, after “21-4714”, by inserting “, 75-5220”;

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

MICHAEL O'NEAL

LANCE KINZER

JANICE L. PAULS

*Conferees on part of House*

JOHN VRATIL

D. SCHMIDT

GRETA GOODWIN

*Conferees on part of Senate*

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 434**.

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

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

The Conference Committee report was adopted.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2706**, 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 3, in line 11, by striking the first “comma” and inserting “and”; also in line 11, by striking “and (a)(6)”;

On page 8, after line 1, by inserting:

“Sec. 6. K.S.A. 8-2117 is hereby amended to read as follows: 8-2117. (a) Subject to the provisions of this section, a court of competent jurisdiction may hear prosecutions of traffic offenses involving any child 14 or more years of age but less than 18 years of age. The court hearing the prosecution may impose any fine authorized by law for a traffic offense, including a violation of K.S.A. 8-1567 and amendments thereto, and may order that the child be placed in a juvenile detention facility, as defined by K.S.A. 38-1602 and amendments thereto, for not more than 10 days. If the child is less than 18 years of age, the child shall

not be incarcerated in a jail as defined by K.S.A. 38-1602 and amendments thereto. If the statute under which the child is convicted requires a revocation or suspension of driving privileges, the court shall revoke or suspend such privileges in accordance with that statute. Otherwise, the court may suspend the license of any person who is convicted of a traffic offense and who was under 18 years of age at the time of commission of the offense. Suspension of a license shall be for a period not exceeding one year, as ordered by the court. Upon suspending any license pursuant to this section, the court shall require that the license be surrendered to the court and shall transmit the license to the division of vehicles with a copy of the court order showing the time for which the license is suspended. The court may modify the time for which the license is suspended, in which case it shall notify the division of vehicles in writing of the modification. After the time period has passed for which the license is suspended, the division of vehicles shall issue an appropriate license to the person whose license had been suspended, upon successful completion of the examination required by K.S.A. 8-241 and amendments thereto and upon proper application and payment of the required fee unless the child's driving privileges have been revoked, suspended or cancelled for another cause and the revocation, suspension or cancellation has not expired.

(b) Instead of suspending a driver's license pursuant to this section, the court may place restrictions on the child's driver's privileges pursuant to K.S.A. 8-292 and amendments thereto.

(c) Instead of the penalties provided in subsections (a) and (b), the court may place the child under a house arrest program, pursuant to K.S.A. 21-4603b, and amendments thereto, and sentence the child to the same sentence as an adult traffic offender under K.S.A. 8-2116, and amendments thereto.

(d) As used in this section, "traffic offense" means a violation of the uniform act regulating traffic on highways ~~and~~, a violation of articles 1 and 2 of chapter 8 of the Kansas Statutes Annotated ~~and a violation of K.S.A. 40-3104, and amendments thereto~~. Traffic offenses shall include a violation of a city ordinance or county resolution which prohibits acts which would constitute a violation of the uniform act regulating traffic on highways ~~or~~, a violation of articles 1 and 2 of chapter 8 of the Kansas Statutes Annotated, ~~or a violation of K.S.A. 40-3104, and amendments thereto~~, and any violation of a city ordinance or county resolution which prohibits acts which are not violations of state laws and which relate to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind.

Sec. 7. K.S.A. 40-3104 is hereby amended to read as follows: 40-3104. (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court.

No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsection (b), (c) or (d) shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

(f) Any person in whose name more than 25 motor vehicles are registered in Kansas may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. The certificate of self-insurance issued by the commissioner shall cover such owned vehicles and those vehicles, registered in Kansas, leased to such person if the lease agreement requires that motor vehicle liability insurance on the vehicles be provided by the lessee. Upon application of any such person, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such person is possessed and will continue to be possessed of ability to pay any liability imposed by law against such person arising out of the ownership, operation, maintenance or use of any motor vehicle described in this subsection. A self-insurer shall provide liability coverage subject to the provisions of subsection (e) of K.S.A. 40-3107, and amendments thereto, arising out of the ownership, operation, maintenance or use of a self-insured motor vehicle in those instances where the lessee or the rental driver, if not the lessee, does not have a motor vehicle liability insurance policy or insurance coverage pursuant to a motor vehicle liability insurance policy or certificate of insurance or such insurance policy for such leased or rented vehicle. Such liability coverage shall be provided to any person operating a self-insured motor vehicle with the expressed or implied consent of the self-insurer.

Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to provide liability coverage or personal injury protection benefits required by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any liability imposed by law arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, or to otherwise comply with the requirements of this subsection shall constitute reasonable grounds for the cancellation of a certificate of self-insurance. Reasonable grounds shall not exist unless such objectionable activity occurs with such frequency as to indicate a general business practice.

Self-insureds shall investigate claims in a reasonably prompt manner, handle such claims in a reasonable manner based on available information and effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear.

As used in this subsection, "liability imposed by law" means the stated limits of liability as provided under subsection (e) of K.S.A. 40-3107, and amendments thereto.

Nothing in this subsection shall preclude a self-insurer from pursuing all rights of subrogation against another person or persons.

(g) (1) Any person violating any provision of this section shall be guilty of a class B misdemeanor and shall be subject to a fine of not less than \$300 nor more than \$1,000 or confinement in the county jail for a term of not more than six months, or both such fine and confinement.

(2) Any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor and shall be subject to a fine of not less than \$800 nor more than \$2,500.

(h) In addition to any other penalties provided by this act for failure to have or maintain financial security in effect, the director, upon receipt of a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or a denial of such insurance by the insurance company listed on the form prescribed by the secretary of revenue pursuant to subsection (d) of this section, shall, upon notice and hearing as provided by K.S.A. 40-3118, and amendments thereto:

(1) Suspend:

(A) The license of each driver in any manner involved in the accident;

(B) the license of the owner of each motor vehicle involved in such accident, unless the vehicle was stolen at the time of the accident, proof of which must be established by the owner of the motor vehicle. Theft by a member of the vehicle owner's immediate family under the age of 18 years shall not constitute a stolen vehicle for the purposes of this section;

(C) if the driver is a nonresident, the privilege of operating a motor vehicle within this state; or

(D) if such owner is a nonresident, the privilege of such owner to operate or permit the operation within this state of any motor vehicle owned by such owner; and

(2) revoke the registration of all vehicles owned by the owner of each motor vehicle involved in such accident.

(i) The suspension or revocation requirements in subsection (h) shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy as required by K.S.A. 40-3107, and amendments thereto, with respect to the vehicle involved in the accident;

(2) to the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy with respect to such driver's driving of vehicles not owned by such driver;

(3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103, and amendments thereto;

(4) to the driver or owner of any vehicle involved in the accident which was exempt from the provisions of this act pursuant to K.S.A. 40-3105, and amendments thereto;

(5) to the owner of a vehicle described in subsection (a)(2).

(j) (1) For the purposes of provisions (1) and (2) of subsection (i) of this section, the director may require verification by an owner's or driver's insurance company or agent thereof that there was in effect at the time of the accident an automobile liability policy as required in this act.

Any suspension or revocation effected hereunder shall remain in effect until satisfactory proof of financial security has been filed with the director as required by subsection (d) of K.S.A. 40-3118, and amendments thereto, and such person has been released from liability or is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action, has entered into an agreement for the payment of damages, or has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director and has paid the reinstatement fee herein prescribed. Such reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$300.

(2) Subject to the provisions of subsection (k), any suspension or revocation effected hereunder shall remain in effect until such person:

(A) Has filed satisfactory proof of financial security with the director as required by subsection (d) of K.S.A. 40-3118 and amendments thereto;

(B) has paid the reinstatement fee herein prescribed; and

(C) (i) has been released from liability;

(ii) is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action;

(iii) has entered into an agreement for the payment of damages; or

(iv) has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director.

(3) The reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$300.

(k) (1) Whenever any person whose license has been suspended or revoked pursuant to this section is involved in an accident and has entered into an agreement with any driver, or such driver's insurer, who has been damaged or whose vehicle has been damaged to pay for such damage and such person defaults on payments under such agreement, the driver or the driver's insurer, as appropriate, shall notify the director within 60 days of the date of default.

(2) Upon receipt of the notice of default, the director shall immediately suspend such person's license and registration. If such person is a nonresident, the director shall immediately suspend such nonresident's privilege to operate a motor vehicle in this state.

(3) Except as provided in paragraph (4), such person's driver's license, registration and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until:

(A) the director receives notice payments under the agreement referred to in paragraph (1) have been resumed and that payments under such agreement are no longer in default;

(B) such person has filed satisfactory proof of financial responsibility with the director as required by subsection(d) of K.S.A. 40-3118 and amendments thereto; and

(C) the reinstatement fee required by subsection (j) has been paid.

(4) Upon due notice to the director that the conditions of paragraph (3) have been fulfilled, such person may obtain from the director an order restoring such person's driver's license, registration and nonresident's operating privilege to operate a motor vehicle in this state conditioned upon such person's continued compliance with the agreement referred to in paragraph (1).

(5) In the event such person fails to make any further payment under the agreement referred to in paragraph (1) when such payment is due, the director, upon receipt of notice of such default, shall immediately suspend the license, registration or nonresident's operating privilege of such person until all payments have been made under the agreement referred to in paragraph (1). No suspension of such person's license, registration or nonresident's privilege to operate a motor vehicle in this state shall be reinstated pursuant to paragraph (4).

(l) The provisions of this section shall not apply to motor carriers of property or passengers regulated by the corporation commission of the state of Kansas.

⊕(m) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.”;

And by renumbering the remaining sections accordingly;

On page 10, in line 40, after “8-255”, by inserting “, 8-2117 and 40-3104”;

In the title, in line 16, by striking all after the stricken material; in line 17, by striking all before the semicolon and inserting: “drivers; relating to driver’s license restriction and suspension; juvenile traffic offenders”; also in line 17, after “8-255”, by inserting “, 8-2117 and 40-3104”;

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

JOHN VRATIL  
TERRY BRUCE  
GRETA GOODWIN  
*Conferees on part of Senate*

MICHAEL O’NEAL  
LANCE KINZER  
JANICE L. PAULS  
*Conferees on part of House*

Senator Vratil moved the Senate adopt the Conference Committee Report on **Sub HB 2706**.

On roll call, the vote was: Yeas 36, Nays 4, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Haley, Huelskamp, Ostmeyer, Pyle.

The Conference Committee report was adopted.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2893**, submits the following report:

The Senate recedes from all of its amendments to the bill and agrees to further amend the bill, As Amended by House Committee, as follows:

On page 1, in line 13, before “Section”, by inserting “New”; in line 16, after the comma, by inserting “a county, a city,”;

On page 2, in line 14, by striking “(1)” and creating and inserting a new paragraph as follows:

“(1) “County or city law enforcement agency” means a city police department, a county sheriff’s department, a county law enforcement department as defined in K.S.A. 19-4401, and amendments thereto, or a law enforcement agency established pursuant to the consolidated city-county powers in K.S.A. 12-345, and amendments thereto.

(2)”;

And by renumbering the remaining paragraph accordingly;

Also on page 2, in line 24, by striking “a pharmacist licensed by the state board of pharmacy,”;

On page 3, in line 7, before “Sec.”, by inserting “New”; following line 26, by inserting:

“New Sec. 3. (a) Obstruction of a medicaid fraud investigation is knowingly and intentionally engaging in one or more of the following during an investigation of any matter pursuant to K.S.A. 21-3844 *et seq.*, and amendments thereto:

(1) Falsifying, concealing or covering up a material fact by any trick, misstatement, scheme or device; or

(2) making or causing to be made any materially false writing or document knowing that such writing or document contains any false, fictitious or fraudulent statement or entry.

(b) Obstruction of a medicaid fraud investigation is a severity level 9, nonperson felony.

(c) This section shall be part of and supplemental to the Kansas medicaid fraud control act.

Sec. 4. K.S.A. 2005 Supp. 21-3847 is hereby amended to read as follows: 21-3847. (a) No ~~person nor recipient of medicaid benefits~~, family member of such ~~person recipient or provider of medicaid services~~ shall:

(1) Knowingly and intentionally solicit or receive any remuneration, including but not limited to any kickback, bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind:

(A) In return for referring or refraining from referring an individual to a person for the furnishing or arranging for the furnishing of any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or

(B) in return for purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program.

(2) Knowingly and intentionally offer or pay any remuneration, including, but not limited to, any kickback, bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:

(A) To refer or refrain from referring an individual to a person for the furnishing or arranging for the furnishing of any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or

(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program.

(3) *Knowingly divide or share any funds illegally obtained from the medicaid program.*

(b) *No medicaid recipient shall knowingly and intentionally trade a medicaid number for money or other remuneration, sign for services that are not received by the medicaid recipient or sell or exchange for value goods purchased or provided under the medicaid program.*

~~(c)~~ (c) A violation of this section is a severity level 7, nonperson felony.

~~(d)~~ (d) This section shall not apply to a refund, discount, copayment, deductible, incentive or other reduction obtained by a provider in the ordinary course of business, and appropriately reflected in the claims or reports submitted to the medicaid program, or its fiscal agent, nor shall it be construed to prohibit deductibles, copayments or any other cost or risk sharing arrangements which are a part of any program operated by or pursuant to contracts with the medicaid program.

Sec. 5. K.S.A. 21-3910 is hereby amended to read as follows: 21-3910. (a) Misuse of public funds is *knowingly* using, lending or permitting another to use; public money in a manner not authorized by law, by a custodian or other person having control of public money by virtue of such person's official position.

(b) As used in this section, "public money;" means any money or negotiable instrument which belongs to the state of Kansas or any political subdivision thereof.

(c) ~~Misuse of public funds is a severity level 8, nonperson felony.~~ (1) *Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is \$100,000 or more is a severity level 5, nonperson felony.*

(2) *Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is at least \$25,000 but less than \$100,000 is a severity level 7, nonperson felony.*

(3) *Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.*

(4) *Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is less than \$1,000 is a class A nonperson misdemeanor.* Upon conviction of misuse of public funds, the convicted person shall forfeit the person's official position.

Sec. 6. K.S.A. 2005 Supp. 39-7,121d is hereby amended to read as follows: 39-7,121d. (a) The state medicaid plan shall include provisions for a program of differential dispensing fees for pharmacies that provide prescriptions for adult care homes under a unit dose system

in accordance with rules and regulations of the state board of pharmacy and that participate in the return of unused medications program under the state medicaid plan.

(b) The state medicaid plan shall include provisions for differential ingredient cost reimbursement of generic and brand name pharmaceuticals. The director of health policy and finance shall set the rates for differential cost reimbursement of generic and brand name pharmaceuticals by rules and regulations.

(c) *On and after May 23, 2007, the state medicaid plan shall require that every pharmacy claim form under the plan include the prescriber's unique identification number.*

Sec. 7. K.S.A. 60-4104 as amended by section 9 of 2006 House Substitute for Senate Bill No. 196 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

- (a) All offenses which statutorily and specifically authorize forfeiture;
- (b) violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;
- (c) theft which is classified as a felony violation pursuant to K.S.A. 21-3701, and amendments thereto, in which the property taken was livestock;
- (d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments thereto;
- (e) money laundering, K.S.A. 65-4142, and amendments thereto;
- (f) gambling, K.S.A. 21-4303, and amendments thereto, and commercial gambling, K.S.A. 21-4304, and amendments thereto;
- (g) counterfeiting, K.S.A. 2005 Supp. 21-3763, and amendments thereto;
- (h) violations of section 1 of 2006 House Substitute for Senate Bill No. 196, and amendments thereto;
- (i) *medicaid fraud, K.S.A. 21-3844 et seq., and amendments thereto;*
- ~~(j)~~ (j) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;
- ~~(k)~~ (k) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;
- ~~(l)~~ (l) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;
- (m) *furtherance of terrorism or illegal use of weapons of mass destruction, section 3 of 2006 Senate Bill No. 25, and amendments thereto.*

Sec. 8. K.S.A. 60-4105 as amended by section 10 of 2006 House Substitute for Senate Bill No. 196 is hereby amended to read as follows: 60-4105. The following property is subject to forfeiture:

- (a) Property described in a statute authorizing forfeiture;
- (b) *except as otherwise provided by law, all property, including of every kind, including, but not limited to, cash and negotiable instruments and the whole of any lot or tract of land and any appurtenances or improvements to real property that is either:*
  - (1) Furnished or intended to be furnished by any person in an exchange that constitutes conduct giving rise to forfeiture; or
  - (2) used or intended to be used in any manner to facilitate conduct giving rise to forfeiture, including, but not limited to, any computer, computer system, computer network or any software or data owned by the defendant which is used during the commission of a violation of section 1, and amendments thereto;
- (c) all proceeds of any conduct giving rise to forfeiture;
- (d) ~~any~~ *all property of every kind, including, but not limited to, cash and negotiable instruments derived from or realized through any proceeds which were obtained directly or indirectly from the commission of an offense listed in K.S.A. 60-4104, and amendments thereto;*
- (e) all weapons possessed, used, or available for use in any manner to facilitate conduct giving rise to forfeiture;
- (f) ownership or interest in real property that is a homestead, to the extent the homestead was acquired with proceeds from conduct giving rise to forfeiture;

(g) contraband, which shall be seized and summarily forfeited to the state without regard to the procedures set forth in this act;

(h) all controlled substances, raw materials, controlled substance analogs, counterfeit substances, or imitation controlled substances that have been manufactured, distributed, dispensed, possessed, or acquired in violation of the laws of this state; and

(i) any items bearing a counterfeit mark.

Sec. 9. K.S.A. 60-4107 is hereby amended to read as follows: 60-4107. (a) Property may be seized for forfeiture by a law enforcement officer upon process issued by the district court. The court may issue a seizure warrant on an affidavit under oath demonstrating that probable cause exists for the property's forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of any state or of the United States. The court may order that the property be seized on such terms and conditions as are reasonable in the discretion of the court. The order may be made on or in connection with a search warrant. All real property is to be seized constructively or pursuant to a pre-seizure adversarial judicial determination of probable cause, except that this determination may be done *ex parte* when the attorney for the state has demonstrated exigent circumstances to the court.

(b) Property may be seized for forfeiture by a law enforcement officer without process on probable cause to believe the property is subject to forfeiture under this act.

(c) Property may be seized constructively by:

(1) Posting notice of seizure for forfeiture or notice of pending forfeiture on the property.

(2) Giving notice pursuant to K.S.A. 60-4109, and amendments thereto.

(3) Filing or recording in the public records relating to that type of property notice of seizure for forfeiture, notice of pending forfeiture, a forfeiture lien or a *lis pendens*. Filings or recordings made pursuant to this act are not subject to a filing fee or other charge.

(d) The seizing agency shall make reasonable effort to provide notice of the seizure to the person from whose possession or control the property was seized and any interest holder of record within 30 days of seizing the property. If no person is in possession or control, the seizing agency may attach the notice to the property or to the place of the property's seizure or may make a reasonable effort to deliver the notice to the owner of the property. The notice shall contain a general description of the property seized, the date and place of seizure, the name of the seizing agency and the address and telephone number of the seizing officer or other person or agency from whom information about the seizure may be obtained.

(e) A person who acts in good faith and in a reasonable manner to comply with an order of the court or a request of a law enforcement officer is not liable to any person on account of acts done in reasonable compliance with the order or request. No liability may attach from the fact that a person declines a law enforcement officer's request to deliver property.

(f) A possessory lien of a person from whose possession property is seized is not affected by the seizure.

(g) When property is seized for forfeiture under this act, the seizing agency shall, within 45 days of such seizure, forward to the county or district attorney in whose jurisdiction the seizure occurred, a written request for forfeiture which shall include a statement of facts and circumstances of the seizure, the estimated value of the property, the owner and lienholder of the property, the amount of any lien, and a summary of the facts relied on for forfeiture.

(h) Upon receipt of a written request for forfeiture from a local law enforcement agency, the county or district attorney shall have 15 days to accept the request. Should such county or district attorney decline such request, or fail to answer, the seizing agency may:

(1) Request a state law enforcement agency which enforces this act to adopt the forfeiture; or

(2) engage an attorney, approved by the county or district attorney, to represent the agency in the forfeiture proceeding.

(i) Upon receipt of a written request for forfeiture from a state law enforcement agency, the county or district attorney shall have 15 days to accept the request. Should such county or district attorney decline such request, or fail to answer, the seizing agency may engage

an assistant attorney general or other attorney approved by the attorney general's office to represent the agency in the forfeiture proceeding.

(j) *Nothing in this act shall prevent the attorney general, an employee of the attorney general or an authorized representative of the attorney general from conducting forfeiture proceedings under this act.*

(k) Nothing in this act shall prevent a seizing agency from requesting federal adoption of a seizure. It shall not be necessary to obtain any order pursuant to K.S.A. 22-2512, and amendments thereto, to release any seized property to a federal agency should the county or district attorney approve of such transfer.

~~(l)~~ (l) Nothing in this act shall prevent a seizing agency, or the plaintiff's attorney on behalf of the seizing agency, from settling any alleged forfeiture claim against property before or during forfeiture proceedings. Such settlement shall be in writing and shall be approved, if a local agency, by the county or district attorney or, if a state agency, by the attorney general's office and a district court judge. No hearing or other proceeding shall be necessary. The records of settlements occurring prior to commencement of judicial forfeiture proceedings in the district court shall be retained by the county or district attorney for not less than five years.

~~(m)~~ (m) Settlements under this act shall not be conditioned upon any disposition of criminal charges.

Sec. 10. K.S.A. 60-4117 is hereby amended to read as follows: 60-4117. Except as provided in K.S.A. 65-7014, and amendments thereto: (a) When property is forfeited under this act, the law enforcement agency may:

(1) Retain such property for official use or transfer the custody or ownership to any local, state or federal agency, subject to any lien preserved by the court;

(2) destroy or use for investigative or training purposes, any illegal or controlled substances and equipment or other contraband, provided that materials necessary as evidence shall be preserved;

(3) sell property which is not required by law to be destroyed and which is not harmful to the public:

(A) All property, except real property, designated by the seizing agency to be sold shall be sold at public sale to the highest bidder for cash without appraisal. The seizing agency shall first cause notice of the sale to be made by publication at least once in an official county newspaper as defined by K.S.A. 64-101, and amendments thereto. Such notice shall include the time, place, and conditions of the sale and description of the property to be sold. Nothing in this subsection shall prevent a state agency from using the state surplus property system and such system's procedures shall be sufficient to meet the requirements of this subsection.

(B) Real property may be sold pursuant to subsection (A), or the seizing agency may contract with a real estate company, licensed in this state, to list, advertise and sell such real property in a commercially reasonable manner.

(C) No employee or public official of any agency involved in the investigation, seizure or forfeiture of seized property may purchase or attempt to purchase such property; or

(4) salvage the property, subject to any lien preserved by the court.

(b) When firearms are forfeited under this act, the firearms in the discretion of the seizing agency, shall be destroyed, used within the seizing agency for official purposes, traded to another law enforcement agency for use within such agency or given to the Kansas bureau of investigation for law enforcement, testing, comparison or destruction by the Kansas bureau of investigation forensic laboratory.

(c) The proceeds of any sale shall be distributed in the following order of priority:

(1) For satisfaction of any court preserved security interest or lien, *or in the case of a violation, as defined by subsection (h) of K.S.A. 60-4104, and amendments thereto, the proceeds shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the medicaid fraud reimbursement fund;*

(2) thereafter, for payment of all proper expenses of the proceedings for forfeiture and disposition, including expenses of seizure, inventory, appraisal, maintenance of custody, preservation of availability, advertising, service of process, sale and court costs;

(3) reasonable attorney fees:

(A) If the plaintiff's attorney is a county or district attorney, an assistant, or another governmental agency's attorney, fees shall not exceed 15% of the total proceeds, less the amounts of subsection (c)(1) and (2), in an uncontested forfeiture nor 20% of the total proceeds, less the amounts of subsection (c)(1) and (2), in a contested forfeiture. Such fees shall be deposited in the county or city treasury and credited to the special prosecutor's trust fund. Moneys in such fund shall not be considered a source of revenue to meet normal operating expenditures, including salary enhancement. Such fund shall be expended by the county or district attorney, or other governmental agency's attorney through the normal county or city appropriation system and shall be used for such additional law enforcement and prosecutorial purposes as the county or district attorney or other governmental agency's attorney deems appropriate, including educational purposes. All moneys derived from past or pending forfeitures shall be expended pursuant to this act. The board of county commissioners shall provide adequate funding to the county or district attorney's office to enable such office to enforce this act. Neither future forfeitures nor the proceeds therefrom shall be used in planning or adopting a county or district attorney's budget; ~~or~~

(B) *if the plaintiff's attorney is the attorney general and the conduct and offense giving rise to forfeiture is pursuant to subsection (h) of K.S.A. 60-4104, and amendments thereto, fees shall not exceed 15% of the total proceeds, less the amounts of subsection (c)(1) and (2) in an uncontested forfeiture nor 20% of the total proceeds, less the amounts of subsection (c)(1) and (2) in a contested forfeiture. Such fees shall be remitted 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 to the credit of the medicaid fraud prosecution revolving fund. Moneys paid into the medicaid fraud prosecution revolving fund pursuant to this subsection shall be appropriated to the attorney general for use by the attorney general in the investigation and prosecution of medicaid fraud and abuse; or*

(C) if the plaintiff's attorney is a private attorney, such reasonable fees shall be negotiated by the employing law enforcement agency;

(4) repayment of law enforcement funds expended in purchasing of contraband or controlled substances, subject to any interagency agreement.

(d) Any proceeds remaining shall be credited as follows, subject to any interagency agreement:

(1) If the law enforcement agency is a state agency, the entire amount shall be deposited in the state treasury and credited to such agency's state forfeiture fund. There is hereby established in the state treasury the following state funds: Kansas bureau of investigation state forfeiture fund, *Kansas attorney general's state medicaid fraud forfeiture fund*, Kansas highway patrol state forfeiture fund, Kansas department of corrections state forfeiture fund and Kansas national guard counter drug state forfeiture fund. Expenditures from the Kansas bureau of investigation state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general. *Expenditures from the Kansas attorney general's state medicaid fraud forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.* Expenditures from the Kansas highway patrol state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the highway patrol or by a person or persons designated by the superintendent. Expenditures from the Kansas department of corrections state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of corrections or by a person or persons designated by the secretary. Expenditures from the Kansas national guard counter drug state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the adjutant general of Kansas or by a person or persons designated by the adjutant general. Each agency shall compile and submit a forfeiture fund report to the legislature on or before February 1 of each year. Such report shall include, but not be limited to: (A) The fund balance on December 1; (B) the deposits and expenditures for the previous 12-month

period ending December 1. Upon the effective date of this act, the director of accounts and reports is directed to transfer each agency's balance in the state special asset forfeiture fund to the agency's new, state forfeiture fund. All liabilities of the state special asset forfeiture fund existing prior to such date are hereby imposed on the Kansas bureau of investigation state forfeiture fund, Kansas highway patrol state forfeiture fund and the Kansas department of corrections state forfeiture fund. The state special asset forfeiture fund is hereby abolished.

(2) If the law enforcement agency is a city or county agency, the entire amount shall be deposited in such city or county treasury and credited to a special law enforcement trust fund. Each agency shall compile and submit annually a special law enforcement trust fund report to the entity which has budgetary authority over such agency and such report shall specify, for such period, the type and approximate value of the forfeited property received, the amount of any forfeiture proceeds received, and how any of those proceeds were expended.

(3) Moneys in the Kansas bureau of investigation state forfeiture fund, Kansas highway patrol state forfeiture fund, Kansas department of corrections state forfeiture fund, the special law enforcement trust funds and the Kansas national guard counter drug state forfeiture fund shall not be considered a source of revenue to meet normal operating expenses. Such funds shall be expended by the agencies or departments through the normal city, county or state appropriation system and shall be used for such special, additional law enforcement purposes as the law enforcement agency head deems appropriate. Neither future forfeitures nor the proceeds from such forfeitures shall be used in planning or adopting a law enforcement agency's budget.

(4) *Moneys in the Kansas attorney general's medicaid fraud forfeiture fund shall defray costs of the attorney general in connection with the duties of investigating and prosecuting medicaid fraud and abuse.*

Sec. 11. K.S.A. 60-4119 is hereby amended to read as follows: 60-4119. (a) If a person is or may be called to produce evidence at a deposition, hearing or trial under this act or at an investigation brought by the attorney under K.S.A. 60-4118, *and amendments thereto*, the district court for the county in which the deposition, hearing, trial, or investigation is or may be held, upon certification in writing of a request of the county or district attorney for the county, *or the attorney general*, shall issue an order, ex parte or after a hearing, requiring the person to produce evidence, notwithstanding that person's refusal to do so on the basis of the privilege against self-incrimination.

(b) The county or district attorney, *or the attorney general*, may certify in writing a request for an ex parte order under this section if in such ~~county or district~~ attorney's judgment:

(1) The production of the evidence may be necessary to the public interest; and  
 (2) the person has refused or is likely to refuse to produce evidence on the basis of such person's privilege against self-incrimination.

(c) If a person refuses, on the basis of such person's privilege against self-incrimination, to produce evidence in any proceeding described in this act, and the presiding officer informs the person of an order issued under this section, the person may not refuse to comply with the order. The person may be compelled or punished by the district court issuing an order for civil or criminal contempt.

(d) The production of evidence compelled by order issued under this section, and any information directly or indirectly derived from such evidence, may not be used against the person in a subsequent criminal case, except in a prosecution for perjury, K.S.A. 21-3805, and amendments thereto, making false writing, K.S.A. 21-3711, and amendments thereto, or an offense otherwise involving a failure to comply with the order. Nothing in this subsection shall be interpreted as preventing the use in a criminal action any evidence lawfully obtained independently of these procedures.

Sec. 12. K.S.A. 21-3910, 60-4107, 60-4117 and 60-4119 and K.S.A. 2005 Supp. 21-3847 and 39-7,121d and K.S.A. 60-4104 as amended by section 9 of 2006 House Substitute for Senate Bill No. 196 and 60-4105 as amended by section 10 of 2006 House Substitute for Senate Bill No. 196 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking all after “concerning” and inserting “health care costs; relating to offenders in custody; declaring certain acts to be crimes and providing penalties for violations; state medicaid plan; medicaid fraud; obstruction of a medicaid fraud investigation; amending K.S.A. 21-3910, 60-4107, 60-4117 and 60-4119 and K.S.A. 2005 Supp. 21-3847 and 39-7,121d and K.S.A. 60-4104 as amended by section 9 of 2006 House Substitute for Senate Bill No. 196 and 60-4105 as amended by section 10 of 2006 House Substitute for Senate Bill No. 196 and repealing the existing sections.”;

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

JOHN VRATIL  
TERRY BRUCE  
GRETA GOODWIN  
*Conferees on part of Senate*

MICHAEL O'NEAL  
LANCE KINZER  
JANICE L. PAULS  
*Conferees on part of House*

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2893**. On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The Conference Committee report was adopted.

#### **INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

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

SENATE RESOLUTION No. 1847—

A RESOLUTION congratulating and commending Joe Bogner.

WHEREAS, Joe Bogner, President and owner of Western Beverage, Inc., has been named the Kansas Small Business Person of the Year by the United States Small Business Administration. His business, located in Dodge City and Hays, serves 29 western Kansas counties, employs 54 people and delivers nearly 1,500,000 cases of product annually; and

WHEREAS, The business was founded in 1960 by Mr. Bogner's father. While Mr. Bogner was in college he commenced working part-time in the business, but with his father suffering ill health he left the University of Kansas to run the business. The business prospered under his leadership achieving one million dollars in sales in 1978. Upon his father's death in 1985 he became the sole owner and expanded by buying a distributorship in Great Bend. In 1990 a major plant expansion was completed in Dodge City, and in 2000 he purchased an existing distributorship in Hays; and

WHEREAS, Mr. Bogner has participated actively in affairs of his community. He helped secure grant funds for the Boot Hill Museum, and assisted the Boot Hill Reparatory Theatre in securing funds for the renovation of the Dodge City Depot for its performances. He has helped with the Dodge City Roundup Rodeo, Dodge City Days and the Garden City Beef Empire Days and Rodeo. Additionally, his company has sponsored baseball teams, golf tournaments and fundraisers; and

WHEREAS, Mr. Bogner is a member of the Kansas Beer Wholesalers Association and has served as president of the organization: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend Joe Bogner upon being named the Kansas Small Business Person of the Year.

On emergency motion of Senator Huelskamp **SR 1847** was adopted unanimously.

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

## SENATE RESOLUTION No. 1848—

A RESOLUTION congratulating and commending the Shawnee Mission East High School boys swim team and head coach Wiley Wright.

WHEREAS, With a perfect record of nine wins and zero losses, the Shawnee Mission East High School boys swim team became the 2006 Sunflower League champion and the 2006 state champion for the second consecutive year; and

WHEREAS, At the state meet held in Topeka, the 200 medley relay team comprised of Mike Stalzer, Brad Crist, Brogan Runion and Levi Mische took first place and in the process broke the existing school record and earned All-American Consideration; and

WHEREAS, In both the 200 freestyle relay and 400 freestyle relay, the team, comprised of John Cook, Kevin Reene, Brandon Barnds and Luke Tanner, took first place and in doing so broke the school record and the Kansas state record in both events. They also achieved All-American status in both events; and

WHEREAS, Luke Tanner won the state title in the 100 freestyle and 200 freestyle individual events, breaking the state record in the 100 freestyle. He was named an All-American in all four events in which he swam and was honored as the Kansas Swimmer of the Year by the swim coaches; and

WHEREAS, First team Sunflower League swimmers were Luke Tanner, Brogan Runion, Brandon Barnds and Mike Stalzer. Second team Sunflower League swimmers were Kevin Reene, John Cook and Brad Crist; and

WHEREAS, First team All-State selections were Luke Tanner and John Cook; second team All-State selections included Brandon Barnds, Brad Crist and Brogan Runion; and

WHEREAS, The members of this championship team have received statewide recognition for their excellent sportsmanship and athletic ability, and have received appropriate and well deserved accolades from the school and community: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That the Shawnee Mission East High School boys swim team and head coach Wiley Wright be congratulated and commended for being the 2006 state champion swimming team, for their tireless commitment to the rigors of practices and meets, and for the standard of excellence they have set in their chosen sport; and

*Be it further resolved:* That the Secretary of the Senate provide five enrolled copies of this resolution to Lane Green, Athletic Director, Shawnee Mission East High School, 7500 Mission Road, Shawnee Mission, KS 66208-4298.

On emergency motion of Senator Wysong **SR 1848** was adopted unanimously.

Senator Wysong and members of the Senate congratulated the Shawnee Mission East High School boys swim team who became the 2006 Sunflower League champion and the 2006 state champion for the second consecutive year. Swim team members introduced were Brandon Barnds, Andrew Block, Jack Chalfant, Mike Chalfant, John Cook, Brad Crist, Jonathan Firth, George Hart, Chris Hause, Michael Horvath, Shea McChristy, Johnny McGuire, Levi Mische, Kevin Reene, Brogan Runion, Spencer Sherard, Alex Sitomer, Jack Stalder, Michael Stalzer, John Stolle and Luke Tanner, along with Head Coach Wiley Wright and Dive Coach Shelly King. Accompanying the team were Dr. Angelo Cocolis, Principal; Lane Green, Athletic Director and Bailey Armstrong, Student Manager.

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

## SENATE RESOLUTION No. 1849—

A RESOLUTION congratulating and commending the Paola Panther robotics team.

WHEREAS, Panther robotics team number 1108 of Paola was formed in 2002 to provide opportunities for high school students to develop their interest in technology, science and mathematics. The team competes yearly in FIRST Robotics competitions throughout the United States. This activity is sponsored by an organization known as FIRST, which is an acronym describing For Inspiration and Recognition of Science and Technology, an organization which has 1,200 teams worldwide; and

WHEREAS, Every year the FIRST organization creates a new challenge which is provided to all teams. With the task or challenge is a kit containing a control system and other parts which are required to be used to construct the robot, but other operating parts and

decisions as to how the robot is to be constructed are provided by the individual team. The team has six weeks to design and construct its robot which it may enter in competition at one of 30 regional competitions. Of the 1,200 teams competing, 350 qualify to compete at the world championship event, but only the regional champions are eligible to compete for the world champion award; and

WHEREAS, This year team number 1108 has 22 student members who are assisted by 10 adult mentors. While not a school sponsored activity, the high school provides space for the team to meet, and two of the mentors are faculty members; and

WHEREAS, In partnership with the Kauffman Foundation, the team has worked to secure funds and recruit 26 new Kansas City area teams with the hope of having a regional competition at Kansas City in 2007. Locally the team has sponsored several workshops for elementary and middle school students, and at the college level has worked to establish scholarships for participants and to provide workshops for new robotics teams; and

WHEREAS, The team has been successful since its inception. In their rookie year the team built a successful team and robot earning the following awards at the 2003 Lone Star Regional Competition:

- Lone Star Regional Champion
- Lone Star Rookie All-star Award
- Lone Star Motorola Quality Award
- Lone Star Daimler Chrysler Team Spirit Award
- Lone Star Number One Seed
- Lone Star Highest Rookie Seed

Success at the regional level provided the team the opportunity to compete at the Championship event in Houston, Texas, where the team received the highest award available to new teams, the Championship Rookie All-star Award; and

WHEREAS, The team's efforts have been recognized at competitions by professionals in science and technology as well as by their peers and in the community with the following awards:

#### **FIRST AWARDS**

2006

- Wisconsin Regional Chairman's Award
- Wisconsin Regional Web Design Award
- Wisconsin Regional Safety Honorable Mention

2005

- Championship Finalist Galileo Division
- Boilermaker Regional Chairman's Award
- Boilermaker Regional Daily Safety Star Award

2004

- Lone Star Regional Chairman's Award
- Lone Star Xerox Creativity Award

2003

- Championship Rookie All-star Award
- Lone Star Regional Champion
- Lone Star Rookie All-star Award
- Lone Star Motorola Quality Award
- Lone Star Daimler Chrysler Team Spirit Award
- Lone Star Number One Seed
- Lone Star Highest Rookie Seed

#### **PEER AWARDS**

2006

- Regional Team Spirit Award from Team #862
- Regional Team Spirit Award from Team #1259
- Regional Gracious Professionalism Award from Team #1091
- Regional Gracious Professionalism Award from Team #111

2005

- Championship Team Award from Team #365

2003

Championship Best Rookie Team from Team #111

Gracious Professionalism Award from Team #34

**COMMUNITY AWARDS**

2005

Miami County Fair Parade Best Open Class Float, 1st Place

Proclamation Honoring the Paola High School Robotics Team  
from the city of Paola presented by Mayor Bonnie E. Roberts

2003

Miami County Fair Parade Best Open Class Float, 1st Place;

and

WHEREAS, This is a team to be proud of. Students of varying abilities work with community mentors and professionals bringing out the best in all involved: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the Paola Panther Robotics team number 1108 for its past success in robotics competition and wish it success at this year's worldwide competition.

On emergency motion of Senator Apple **SR 1849** was adopted unanimously.

Senators Barnett and Allen, Apple, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, D Schmidt, V Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, and Wysong introduced the following Senate resolution, which was read:

## SENATE RESOLUTION No. 1850—

A RESOLUTION congratulating and commending the 2006 Kansas Master Teachers.

WHEREAS, Seven of the state's best teachers have been selected as Kansas Master Teachers for 2006. The seven were honored on March 29 at Emporia State University, the sponsor of the program, with a day of tours, seminars and receptions; and

WHEREAS, The 2006 Kansas Master Teachers are Vicki Lynn O'Neal, a second grade teacher at Lincoln Elementary School in Baxter Springs; Elaine Bertels Fasulo, a speech-language pathologist at Meadow Lane Elementary School in Olathe; Sherry Hutchcraft, a second grade dual-language teacher at Northwest Elementary School in Dodge City; Marilyn K. Vaughan, a first grade teacher at Cottonwood Point Elementary School in Overland Park; Bob Peterson, lead theatre instructor at Butler Community College in El Dorado; Jo Ellen Dambro, a fifth grade teacher at Lowther South Intermediate School in Emporia; and Karla S. Ewing, a fourth grade teacher at Southwest Elementary School in Pratt; and

WHEREAS, Emporia State University established the Kansas Master Teacher Awards in 1954. The awards are presented annually to teachers described as having "served the profession long and well and who also typify the good qualities of earnest and conscientious teachers"; and

WHEREAS, Local teacher associations, educational organizations and school faculties nominate candidates for the awards. A committee representing educational organizations from across Kansas selected the 2006 winners: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we congratulate and commend the seven 2006 Kansas Master Teachers for demonstrated excellence in their profession and devotion to the children of Kansas; and

*Be it further resolved:* That the Secretary of the Senate provide an enrolled copy of this resolution to Vicki Lynn O'Neal, 901 Lincoln, Baxter Springs, KS 66713; Elaine Bertels Fasulo, 21880 W. 111th, Olathe, KS 66061-8706; Sherry Hutchcraft, 2100 Sixth, Dodge City, KS 67801; Marilyn K. Vaughan, 10521 W. 129th Street, Overland Park, KS 66213-3464; Bob Peterson, 901 South Haverhill Road, El Dorado, KS 67042-3280; Jo Ellen Dambro, 215 W. Sixth, Emporia, KS 66801-4099; and Karla S. Ewing, 1100 W. Eighth, Pratt, KS 67124-2141.

On emergency motion of Senator Barnett **SR 1850** was adopted unanimously.

**REPORT ON ENGROSSED BILLS**

**SB 375, SB 481** reported correctly re-engrossed April 28, 2006.

**REPORT ON ENROLLED BILLS**

**SR 1839, SR 1840, SR 1841, SR 1842, SR 1843, SR 1844, SR 1845** reported correctly enrolled, properly signed and presented to the Secretary of State on April 28, 2006.

**COMMITTEE OF THE WHOLE**

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Teichman in the chair.

On motion of Senator Teichman the following report was adopted:

Recommended **S Sub for HB 2968** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Reitz, on page 9, following line 27, by inserting the following:

“Youth mentoring program

For the fiscal year ending June 30, 2007..... \$250,000”

Senator Journey amended **S Sub for HB 2968**, on page 7, following line 36, by inserting the following:

“(d) On July 1, 2006, the position limitation established for the fiscal year ending June 30, 2007, by section 125(a) of 2006 Senate Bill No. 480 for the attorney general is hereby increased from 94.50 to 102.00.

(e) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:  
Concealed weapon licensure fund

For the fiscal year ending June 30, 2007..... No limit

*Provided*, That the attorney general shall authorize the director of accounts and reports to transfer amounts totaling \$260,000 from the concealed weapon licensure fund of the attorney general to the state general fund at such time as receipts to the fund are sufficient to sustain expenditures for duties and activities relating to the administration of the personal and family protection act as well as to repay the state general fund for money advanced for such purpose: *Provided further*, That upon receipt of such authorization, the director of accounts and reports shall transfer such amount authorized from the concealed weapon licensure fund of the attorney general to the state general fund.

(f) On July 1, 2006, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$260,000 from the state general fund to the concealed weapon licensure fund.”;

On page 25, in line 13, by adding \$12,500 to the to the dollar amount which reads \$38,679,321 and by adjusting the dollar amount in line 13 which reads \$38,679,321 accordingly; in line 20, by adding \$12,500 to the dollar amount and by adjusting the dollar amount in line 20 accordingly;

Senator Huelskamp amended **S Sub for HB 2968**, page 19, following line 8, by inserting the following:

“(c) In addition to the other purposes for which expenditures may be made by the Kansas health policy authority from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2007 for the Kansas health policy authority as authorized by chapter 174 or 206 of the 2005 Session Laws of Kansas or by this or other appropriation act of the 2006 regular session of the legislature, expenditures shall be made by the Kansas health policy authority from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2007 to require as part of the state medicaid plan that to the extent it does not violate federal law medicaid consumers shall provide in addition to the monthly medical identification card a Kansas current resident driver’s license or state-issued identification card each time care is received.”

Senator Huelskamp further amended **S Sub for HB 2968**, on page 30, preceding line 2, by inserting the following:

“Sec. 63. (a) No moneys appropriated from the state general fund or from any special revenue fund for the fiscal years ending June 30, 2006, or June 30, 2007, by Chapter 174 or chapter 206 of the 2005 Session Laws of Kansas or in this act or any other appropriations act of the 2006 regular session of the legislature shall be expended for the purchase of replacement vehicles of 12,000 pounds or less of gross vehicle weight rating by any state agency, except for the Kansas highway patrol and the replacement of wrecked vehicles certified by the director of the budget: *Provided*, That expenditures may be made after the additional requirements for expenditures prescribed in subsections (b) and (c) of this section have been met.

(b) The secretary of administration shall present to the legislative budget committee a report (1) detailing the costs and benefits of the governor’s current replacement policy for the purchase of replacement vehicles of 12,000 pounds or less of gross vehicle weight during fiscal year 2006 and fiscal year 2007; (2) documenting the advantages and disadvantages for the elimination of the central motor pool; (3) describing the costs and benefits of the existing state contract for short-term rental vehicles and the problems with administering the provisions of the contract; and (4) certifying that expenditures for all replacement vehicles included in agency budgets approved for fiscal year 2006 and fiscal year 2007 conform to the governor’s vehicle replacement policy.

(c) The director of the budget shall certify to the director of accounts and reports that the report to the legislative budget committee required in subsection (b) of this section has been presented: *Provided*, That the director of accounts and reports shall authorize expenditures for replacement vehicles following certification by the director of the budget under this section.”;

And by renumbering the remaining sections accordingly

Senator Lee amended **S Sub for HB 2968**, on page 20, in line 19, by adding \$634,715 to the dollar amount and by adjusting the dollar amount in line 19 accordingly; following line 41, by inserting the following:

“(f) On July 1, 2006, the position limitation established for the fiscal year ending June 30, 2007, by section 125(a) of 2006 Senate Bill No. 480 for the Larned state hospital is hereby increased from 954.20 to 972.20.”

Senator Umbarger amended **S Sub for HB 2968**, on page 20, in line 18, by subtracting \$21,834 from the dollar amount and by adjusting the dollar amount in line 18 accordingly; in line 23, by subtracting \$29,561 from the dollar amount and by adjusting the dollar amount in line 23 accordingly

Senator Barone amended **S Sub for HB 2968**, on page 19, following line 8, by inserting the following:

“(c) In addition to the other purposes for which expenditures may be made by the Kansas health policy authority from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2007 for the Kansas health policy authority as authorized by chapter 174 or 206 of the 2005 Session Laws of Kansas or by this or other appropriation act of the 2006 regular session of the legislature, expenditures shall be made by the Kansas health policy authority from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2007 to authorize each resident and each resident spouse of a nursing facility receiving long-term care in a medicaid approved institution to retain a certain amount of money a month in a personal needs fund: *Provided*, That subject to the provisions of this subsection, such amount shall be prescribed in rules and regulations adopted by the head of the designated state medicaid agency, except that the amount shall not be less than \$60: *Provided further*, That the head of the designated state medicaid agency shall authorize for persons receiving long-term care in a medicaid approved institution who also receive supplemental security income payments of a certain amount of money per month to supplement such income: *And provided further*, That subject to the provisions of this subsection, such amount shall be prescribed in rules and regulations adopted by the head of the designated state medicaid agency, except that the amount shall not be less than \$30.”;

On page 20, in line 12, by adding \$290,000 to the dollar amount and by adjusting the dollar amount in line 12 accordingly; following line 41, by inserting:

“(f) In addition to the other purposes for which expenditures may be made from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2007, as authorized by 2006 Senate Bill No. 480 or by this or other appropriation act of the 2006 regular session of the legislature, expenditures shall be made by the above agency to establish a grandparents as foster parents program: *Provided*, That, all grandparents shall meet the financial eligibility requirements developed by the secretary of social and rehabilitation service: *Provided further*, That a grandparent shall be eligible to participate in the program if such grandparent: (1) Is 60 years of age or older; (2) has the grandchild placed in such grandparent’s custody by the state, is the legal guardian of the grandchild or has other legal custody of the grandchild; and (3) has an annual household income of less than 100% of the federal poverty level: *And provided further*, That a grandparent shall not be eligible to participate in the program if the parent or parents of the child reside with such grandparent: *And provided further*, That if there are no grandparents of a child who are willing to participate in the program, the secretary may include in the program any other close relative who becomes the legal guardian of the child or obtains legal custody of the child, as granted by a court of competent jurisdiction or through placement by the secretary. In order to participate, such relative shall meet the eligibility requirements previously established by this subsection: *And provided further*, That the secretary of social and rehabilitation services shall reimburse grandparents in the program for the cost of the care of the grandchild in an amount as determined by the secretary, but not less than 75% of the amount of the foster care payment service provider schedule for the fiscal year ending June 30, 2007: *And provided further*, That such reimbursements shall not be considered income in determining eligibility for public assistance benefits under other state programs and, to the extent allowed by federal law, under federal programs: *And provided further*, That the secretary, on or before March 1, 2007, shall report to the legislature: (1) The number of children participating in the program and the breakdown of where these children were placed, with either a grandparent or other close relative; (2) the number of children moved from a foster care placement or other state custody to a grandparent or other close relative; (3) an overview of the moneys spent on the program; and (4) the cost-savings analysis of implementing the program by having the children placed with a grandparent or other close relative instead of being placed in state custody.”;

On page 26, following line 14, by inserting the following:

“LTC — medicaid assistance — NF

For the fiscal year ending June 30, 2007..... \$1,560,000”

Senator Steineger amended **S Sub for HB 2968**, on page 8, after line 3, by inserting the following:

“Parent education program

For the fiscal year ending June 30, 2007..... \$500,000”

Senator Emler amended **S Sub for HB 2968**, on page 12, following line 43, by inserting the following to read as follows:

“(c) During the fiscal year ending June 30, 2007, no moneys appropriated for the state conservation commission from the state general fund or any special revenue fund for fiscal year 2007 by this or other appropriation act of the 2006 regular session of the legislature, or by any appropriation act of any special session of 2006 of the legislature, shall be expended for fiscal year 2007 for a conservation reserve enhancement program unless (1) a substantive bill authorizing and prescribing the administration of a conservation reserve enhancement program, including the requirement that the state conservation commission and the Kansas water office prepare a program for the retirement of water rights under the conservation reserve enhancement program and present such program for the retirement of water rights to the senate committee on natural resources and the house committee on environment, is passed by the legislature during the 2006 regular session, or during any special session of 2006 of the legislature, and enacted into law; and (2) such program for the retirement of water rights has been presented to the senate committee on natural resources and the house committee on environment during a regular or special session of the legislature.”;

On page 13, following line 21, by inserting the following to read as follows:

“(f) During the fiscal year ending June 30, 2007, no moneys appropriated for the Kansas water office from the state general fund or any special revenue fund for fiscal year 2007 by

this or other appropriation act of the 2006 regular session of the legislature, or by any appropriation act of any special session of 2006 of the legislature, shall be expended for fiscal year 2007 for a conservation reserve enhancement program unless (1) a substantive bill authorizing and prescribing the administration of a conservation reserve enhancement program, including the requirement that the state conservation commission and the Kansas water office prepare a program for the retirement of water rights under the conservation reserve enhancement program and present such program for the retirement of water rights to the senate committee on natural resources and the house committee on environment, is passed by the legislature during the 2006 regular session, or during any special session of 2006 of the legislature, and enacted into law; and (2) such program for the retirement of water rights has been presented to the senate committee on natural resources and the house committee on environment during a regular or special session of the legislature.”

Senator V. Schmidt amended **S Sub for HB 2968**, on page 9, in line 18, by adding \$1,400,000 to the dollar amount and by adjusting the dollar amount in line 18 accordingly;

Senator Haley amended **S Sub for HB 2968**, on page 28, preceding line 10, by inserting the following:

“(c) Notwithstanding the provisions of K.S.A. 74-4921, and amendments thereto, no moneys appropriated from the state general fund or from any special revenue fund for the fiscal years ending June 30, 2006, or June 30, 2007, by chapter 174 or chapter 206 of the 2005 Session Laws of Kansas or by this or any other appropriations act of the 2006 regular session of the legislature for the above agency shall be expended for making new investments in companies which either directly or through an affiliated instrumentality meet the following criteria: (1) Provide revenues to the Sudanese government through business with the government, government owned companies or government controlled consortiums; (2) offer little substantive benefit to those outside of the Sudanese government or its affiliated supporters; and (3) have either demonstrated complicity in the Darfur genocide or have not taken any substantial action to halt the genocide.”

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 17, Nays 12, Present and Passing 8, Absent or Not Voting 3.

Yeas: Betts, Brownlee, Haley, Hensley, Huelskamp, Journey, Kelly, Lee, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Schmidt D, Schodorf, Steineger, Wagle.

Nays: Allen, Apple, Barnett, Bruce, Brungardt, Emler, Reitz, Schmidt V, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Barone, Francisco, Gilstrap, Goodwin, McGinn, Morris, Pine, Wilson.

Absent or Not Voting: Donovan, Jordan, Taddiken.

The motion carried and the amendment was adopted.

The Committee recommended **S Sub for HB 2968** be passed as amended.

The following amendments to **S Sub for HB 2968** were rejected:

Senator Palmer moved to amend **S Sub for HB 2968**, on page 30, following line 1, by inserting the following:

“Sec. 63. On July 1, 2006, K.S.A. 2005 Supp. 79-2959, as amended by section 160 of 2006 Senate Bill No. 480, is hereby amended to read as follows: 79-2959. (a) There is hereby created the local ad valorem tax reduction fund. All moneys transferred or credited to such fund under the provisions of this act or any other law shall be apportioned and distributed in the manner provided herein.

(b) On January 15 and on July 15 of each year, the director of accounts and reports shall make transfers in equal amounts which in the aggregate equal 3.63% of the total retail sales and compensating taxes credited to the state general fund pursuant to articles 36 and 37 of chapter 79 of Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto during the preceding calendar year from the state general fund to the local ad valorem tax reduction fund, except that ~~no moneys shall be transferred from the state general fund to the local ad valorem tax reduction fund during state fiscal years 2007 and 2008~~ *the amount of the transfer on each such date shall be \$27,340,500 during fiscal years 2007, 2008 and 2009.* All such transfers are subject to reduction under K.S.A. 75-6704 and amendments thereto. All transfers made in accordance with the provisions of this section shall be consid-

ered to be demand transfers from the state general fund, *except that all such transfers during fiscal years 2007, 2008 and 2009 shall be considered to be revenue transfers from the state general fund.*

(c) The state treasurer shall apportion and pay the amounts transferred under subsection (b) to the several county treasurers on January 15 and on July 15 in each year as follows: (1) Sixty-five percent of the amount to be distributed shall be apportioned on the basis of the population figures of the counties certified to the secretary of state pursuant to K.S.A. 11-201 and amendments thereto on July 1 of the preceding year; and (2) thirty-five percent of such amount shall be apportioned on the basis of the equalized assessed tangible valuations on the tax rolls of the counties on November 1 of the preceding year as certified by the director of property valuation.

(d) *It is hereby declared that the legislative intent of the transfers prescribed by this section shall be for property tax relief in an amount not less than the aggregate amount transferred pursuant to this section in fiscal years 2007, 2008 and 2009.*

Sec. 64. On July 1, 2006, K.S.A. 2005 Supp. 79-2959, as amended by section 160 of 2006 Senate Bill No. 480, is hereby repealed.”;

And by renumbering the remaining sections accordingly

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 15, Nays 24, Present and Passing 1, Absent or Not Voting 0.

Yeas: Barnett, Barone, Brownlee, Bruce, Donovan, Huelskamp, Jordan, Journey, O’Connor, Ostmeyer, Palmer, Petersen, Pyle, Waggle, Wilson.

Nays: Allen, Apple, Betts, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Hensley, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Haley.

The motion failed and the amendment was rejected.

EXPLANATION OF VOTE

MR. PRESIDENT: I have always supported restoring demand transfers back to local units of government, but doing it this late in the process is not the right way. Before I was a State Senator, I was always disappointed that the Kansas legislative body took this property tax relief away. Before break I visited with a Senator about this restoration and did not hear anything more on this topic until today. This is an important issue and needs to be methodically thought out and go through the committee process. I would be willing to begin working on this at the start of the next legislative session and hope that those who want this today will join me in the process. — CAROLYN MCGINN

Senator Umbarger moved to amend **S Sub for HB 2968**, on page 19, following line 14, by inserting the following:

“Film production incentive grant

For the fiscal year ending June 30, 2007..... \$300,000  
*Provided*, That expenditures shall be made by the department of commerce for film production from the film production incentive grant account of the state general fund only upon certification of the secretary of commerce to the director of accounts and reports that private moneys, or in kind services, or a combination of both, have been expended in Kansas necessary for the production of the film to match the expenditure of state moneys on the basis of \$2 of private moneys, or in kind services, or a combination of both, to \$1 of state moneys: *Provided further*, That expenditures made from the film production incentive grant account of the state general fund shall be limited to film production in Jackson county, Kansas.”

Senator Huelskamp moved to amend **S Sub for HB 2968**, on page 30, following line 1, by inserting the following to read as follows:

“Sec. 63. In addition to the other purposes for which expenditures may be made by each state agency from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2007 for the Kansas health policy authority as authorized by chapter 174 or chapter 206 of the 2005 Session Laws of Kansas, by 2006 Senate Bill No. 480 or by this or other appropriation act of the 2006 regular session of the legislature, expenditures shall

be made by each state agency for fiscal year 2007 from the moneys appropriated from the state general fund or any special revenue fund, to register and participate in the federal work authorization program established under the illegal immigration reform and immigrant responsibility act of 1996, as in effect on the effective date of this act, in order to verify information on all full-time and regular part-time employees, including seasonal and temporary positions, who are extended an offer of employment on and after July 1, 2006 with such state agency.”;

And by renumbering the remaining sections accordingly

#### **FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS**

On motion of Senator D. Schmidt an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **S Sub for SB 2968** was advanced to Final Action and roll call.

**S Sub for HB 2968**, An act making and concerning appropriations for the fiscal years ending June 30, 2006, June 30, 2007, June 30, 2008 and June 30, 2009, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Barnett, Brownlee, Huelskamp, Journey, Palmer, Petersen, Pyle, Wagle, Wilson.  
The substitute bill passed, as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Monday, May 1, 2006.

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

PAT SAVILLE, *Secretary of the Senate.*

