

(RE-CORRECTED)

# Journal of the Senate

FORTY-EIGHTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Wednesday, March 23, 2011, 9:00 a.m.

The Senate was called to order by Vice President John Vratil.  
The roll was called with thirty-nine senators present.  
Senator Donovan was excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Yesterday there were a whole lot of children touring the State House. They should remind us that children are affected by what we say and what we do.

When we're tempted to deceive,  
And teetering on the brink;  
We should stop and ask ourselves,  
"What will the children think?"

When we know we've past our limit,  
And they say, "Just one more drink."  
We should stop and ask ourselves,  
"What will the children think?"

When we need to take a stand,  
And our courage starts to shrink;  
We should stop and ask ourselves,  
"What will the children think?"

When we start to break a promise  
And dismiss it with a wink:  
We should stop and ask ourselves,  
"What will the children think?"

Even more important, Lord,  
When our faith begins to shrink,

We should stop and ask ourselves,  
 “What will my Savior think?”  
 In the name of Jesus Christ, AMEN

The pledge of allegiance was led by Vice President John Vratil.

### **SPECIAL ORDER OF BUSINESS**

The time having arrived, other business was suspended and the Senate turned its attention to the Special Order of Business which had been scheduled for the day, **Executive Reorganization Order No. 34**, relating to consolidation of parole review functions in the executive branch by abolishing the Parole board as established by K.S.A. 22-3701 et seq. and establishing the Prisoner Review Board within the Department of Corrections, and **Senate Resolution 1819** were considered.

**SR 1817**, A RESOLUTION disapproving Executive Reorganization Order No. 34, relating to consolidation of parole review functions in the executive branch by abolishing the parole board as established by K.S.A. 22-3701 et seq. and establishing the prisoner review board within the department of corrections, was considered on final action.

On roll call, the vote was: Yeas 20, Nays 19, Present and Passing 0, Absent or Not Voting 1.

Yeas: Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Longbine, McGinn, Morris, Owens, Reitz, Schmidt A, Schmidt V, Schodorf, Teichman, Umbarger, Vratil.

Nays: Abrams, Apple, Bruce, Emler, Kelsey, King, Love, Lynn, Marshall, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

Absent or Not Voting: Donovan.

The resolution was not adopted.

### **REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2117**.

Local Government: **SB 244**.

Utilities: **HCR 5022**.

### **CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR**

On motion of Senator Apple the Senate nonconcurrred in the House amendments to **H Sub for SB 196** and requested a conference committee be appointed.

The Vice President appointed Senators Apple, King and Holland as a conference committee on the part of the Senate.

### **CONFIRMATION OF APPOINTMENTS**

In accordance with Senate Rule 56, the following appointments, submitted by the Governor to the senate for confirmation, were considered.

Senator Emler moved the following appointments be confirmed as recommended by the Standing Senate Committees:

*By the Governor:*

On the appointment to the:

*Department of Corrections:*

Raymond Roberts, Secretary, serves at the pleasure of the Governor.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The appointment was confirmed.

On the appointment to the:

*Historical Society:*

Jennie A. Chinn, Executive Director, serves at the pleasure of the Governor.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The appointment was confirmed.

On the appointment to the:

*Racing and Gaming Commission:*

Dennis McKinney, Member, to serve a four year term expiring January 15, 2015.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The appointment was confirmed.

On the appointment to the:

*Racing and Gaming Commission:*

Jay T. Shadwick, Member, to serve a four year term, expiring January 15, 2015.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The appointment was confirmed.

On the appointment to the:

*Racing and Gaming Commission:*

Timothy A. Shultz, Member, to serve a four year term expiring January 15, 2013.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The appointment was confirmed.

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

**Sub SB 111**, AN ACT concerning school districts; relating to special education state aid; amending K.S.A. 2010 Supp. 72-978 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The substitute bill passed.

**S Sub for HB 2008**, AN ACT concerning crimes, punishment and criminal procedure; relating to identity theft and identity fraud; amending section 285 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing section; also repealing K.S.A. 2009 Supp. 21-4704, as amended by section 6 of chapter 147 of the 2010 Session laws of Kansas and K.S.A. 2010 Supp. 21-4704, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The substitute bill passed.

**HB 2010**, AN ACT concerning civil procedure and civil actions; relating to civil commitment of sexually violent predators; reimbursement for costs related to habeas corpus actions; covered offenses and conduct giving rise to forfeiture; amending K.S.A. 2010 Supp. 59-29a04 and 60-4104 and repealing the existing sections, was considered

on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

**HB 2015**, AN ACT concerning school districts; relating to the calculation of the local option budget; amending K.S.A. 2010 Supp. 72-6433d and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, Kultala, Longbine, Love, Lynn, Marshall, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: King, Masterson.

Absent or Not Voting: Donovan.

The bill passed, as amended.

**HB 2067**, AN ACT concerning elections; amending K.S.A. 25-208a, 25-2203, 25-2352 and 25-3203 and K.S.A. 2010 Supp. 8-1324, 25-1122, 25-1122d, 25-1123, 25-1124, 25-1128, 25-2309, 25-2320, 25-3104, 25-3107, 25-2908, 25-3002 and 65-2418 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Francisco, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Faust-Goudeau, Haley, Reitz.

Absent or Not Voting: Donovan.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote "NO" on **HB 2067**. Although there are some good elements in this bill, the quantum shift in requiring every registered voter to show a valid state issued photo I.D. is a recipe, by design, to disenfranchise fragile legal voters from exercising their constitutional right to vote.

This chilling effect on our democracy is completely unnecessary. There is no, repeat no, substantial evidence of rampant voting fraud in the state of Kansas. None. Period. A photo ID requirement will stifle participation in our fragile democracy.

Voter apathy is high. Turnout is low. Government should be finding ways to get off of the backs of people not hinder legal voters more. Since we are the government, we should be getting and encouraging more people to vote and not fewer as this bill will result in doing.

Of the 26 states that have an ID requirement only 9 require photo ID. Non photo ID saves money and resolves the issue; even Arizona allows non-photo ID's .

Fragile voters will be "caged" and, thereby, disenfranchised from their ease in voting by this bill. There will be problems and a reduction in our proud democracy, by design, with its implementation. – DAVID HALEY

Senators Faust-Goudeau and Reitz request the record to show they concur with the "Explanation of Vote" offered by Senator Haley on **HB 2067**.

**S Sub for HB 2071**, AN ACT concerning community corrections; relating to grant programs; amending K.S.A. 2010 Supp. 75-5291 and 75-52,112 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The substitute bill passed.

**HB 2104**, AN ACT concerning mental health information; relating to access by law enforcement officers; amending K.S.A. 2010 Supp. 65-5603 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

**HB 2118**, AN ACT concerning crimes, criminal procedure and punishment; relating to supervision fees for appearance bonds; amending K.S.A. 2010 Supp. 21-4603d and 22-2802 and section 244 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

**HB 2124**, AN ACT concerning certified public accountants; relating to professional corporations practicing in partnership; amending K.S.A. 2010 Supp. 1-308 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

**HB 2125**, AN ACT concerning the Kansas professional regulated sports act; pertaining to violations; pertaining to civil penalties; pertaining to fees; pertaining to rules and regulations; amending K.S.A. 2010 Supp. 74-50,181, 74-50,182, 74-50,185, 74-50,186, 74-50,187, 74-50,189, 74-50,193 and 74-50,194 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 34, Nays 5, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt A, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Merrick, Olson, Pilcher-Cook, Pyle, Steineger.

Absent or Not Voting: Donovan.

The bill passed, as amended.

**HB 2147**, AN ACT concerning adult care homes, relating to the definition of a home plus residence or facility; amending K.S.A. 2010 Supp. 39-923 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 33, Nays 6, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Haley, Huntington, Kelsey, King, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, Hensley, Holland, Kelly, Kultala, Owens.

Absent or Not Voting: Donovan.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote NO on **HB 2147**. I am concerned we are allowing for increased capacity for these homes whose current standards only require meeting the plans for care, and do not address requirements for specialized training for the staff. If these home operators are offering nursing home levels of care, the administrators should be licensed and the staff caring for the residents should have disease specific

training. – MARCI FRANCISCO

Senator Kelly requests the record to show she concurs with the “Explanation of Vote” offered by Senator Francisco on **HB 2147**.

**S Sub for HB 2149**, AN ACT enacting the university engineering initiative act; amending K.S.A. 2010 Supp. 74-8768 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 28, Nays 11, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Marshall, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt A, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Nays: Abrams, Bruce, Love, Lynn, Masterson, Merrick, Olson, Pilcher-Cook, Pyle, Steineger, Wagle.

Absent or Not Voting: Donovan.

The substitute bill passed.

#### EXPLANATION OF VOTE

MR. VICE PRESIDENT: This is an impressive list of industry partners who have lent their support for this legislation. I applaud the efforts of those who created this legislation. However, I have concerns regarding the timing of this effort. I cannot support an additional \$195 million in debt which impacts all Kansas taxpayers and their children. Mr. Vice President, this year we are struggling to balance our current state budget and are making cuts to most every program. In addition, I am not convinced that this effort will solve the engineering “brain drain” or achieve the much needed return on taxpayers \$195 million dollar investment – JULIA LYNN

Senator Abram requests the record to show he concurs with the “Explanation of Vote” offered by Senator Lynn on **HB 2149**.

MR. VICE PRESIDENT: I vote No on **HB 2149**. The goal of creating and educating more engineers is laudable. Who could be against it? I vote no based on the method to gain the goal.

1. The Kansas Board of Regents has enough self executing authority to set this goal and these policies, except for the creation of funds with State General Fund.
2. I object to the \$195 million in additional bonding authority to build more buildings, when they can't maintain the campuses and buildings they already have. The Board of Regents has been crying for four years about their \$600 million of deferred maintenance needs. Adding more buildings to their inventory worsens this problem.
3. Most importantly, **HB 2149** violates the higher education reform enacted in 1999. **SB 345** was an attempt to improve coordination amongst the Board of Regents and Community Colleges. The goal was to eliminate duplicative programs, streamline, and focus resources. The methodology of **HB 2149** reverses these reforms and incentives duplication. – CHRIS STEINEGER

**HB 2182**, AN ACT concerning health care; amending K.S.A. 16-1602 and K.S.A. 2010 Supp. 65-1669, 65-1671, 65-1901, 65-1902, 65-1905, 65-1912, 65-2901, 65-2913 and 74-7507 and section 2, section 4, section 7, section 8, section 9, and section 10 of chapter 45 of the 2010 Session Laws of Kansas and repealing the existing sections; also repealing K.S.A. 65-1734, 65-4970, 65-4972, and 65-4973 and K.S.A. 2010 Supp. 65-3228, 65-4971 and 65-4974, was considered on final action.

On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 1, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Haley, Hensley.

Present and Passing: Holland.

Absent or Not Voting: Donovan.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote “NO” on **HB 2182**, as amended by the Committee of the Whole. I support the underlying bill but wholly *oppose* the amendment regarding the so-called freedom from Healthcare Act, which is a feckless, meaningless attempt to decouple Kansas from provisions of the *Patient Protection and Affordable Care Act*, signed into law exactly one year ago today (nicknamed “Obamacare”).

We should, as a mature, responsible legislature with little time or taxpayer dollars, *stop wasting* our limited session on political posturing, especially on a federal program which will potentially benefit all Kansans; all Americans.

Grow up; move forward colleagues.....*ahead!*

The U.S. Supreme Court will ultimately render a verdict affirming, or not, the constitutionality of the Healthcare Act. I believe we, who desire a healthier, more financially secure America, will prevail. And will then, unobstructed finally, go to work....for America.

So when Obamacare is working well for the majority of this country, please do yourself two favors, O.K.?

First: Continue to give *credit*, as *Obamacare*, to this Presidential Administration and to the visionary, brave, men and women of the last Congress for its passage, and

Second: “What will the children think?” Our chaplain, Fred Holloman asked us to consider during this morning's senate prayer, so when *Obamacare* is working and the stories of a healthier and more financially secure constituency abound, try not to hang your heads in shame when *your* children and grandchildren ask you: “Tell me why, again were you so against healthcare benefits...??” O.K.? – DAVID HALEY

**Sub HB 2191**, AN ACT concerning school districts; relating to teachers; amending K.S.A. 2010 Supp. 72-5445 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not

Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The substitute bill passed, as amended.

**S Sub for HB 2194**, AN ACT concerning retirement and benefits; relating to the Kansas public employees retirement system and systems thereunder; employer and employee contributions; benefits; amending K.S.A. 74-4915 and 74-4919 and K.S.A. 2010 Supp. 74-4914d, 74-4920, 74-49,205, 74-49,210 and 74-49,213 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 4, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Merrick, Olson, Pilcher-Cook, Pyle.

Absent or Not Voting: Donovan.

The substitute bill passed.

**HB 2195**, AN ACT concerning municipalities; establishing the organized collection service act, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

**HB 2227**, AN ACT concerning crimes, criminal procedure and punishment; relating to warrants; amending K.S.A. 22-2304 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

**S Sub for HB 2251**, AN ACT concerning school districts; relating to the statewide levy for public schools and the exemption therefrom; amending K.S.A. 2010 Supp. 72-

6431 and 79-201x and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The substitute bill passed.

**Sub HB 2271**, AN ACT concerning agriculture; relating to plant pest inspection and control; amending K.S.A. 2010 Supp. 2-2113, 2-2115, 2-2116, 2-2117, 2-2118, 2-2120, 2-2122, 2-2123, 2-2124, 2-2125, 2-2126, 2-2128 and 2-2129 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 35, Nays 4, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Merrick, Olson, Pilcher-Cook, Pyle.

Absent or Not Voting: Donovan.

The substitute bill passed, as amended.

## INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Kultala, Faust-Goudeau, Francisco, Huntington, Kelly, Lynn, McGinn, Pilcher-Cook, V. Schmidt, Schodorf, Teichman and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1834—

A RESOLUTION recognizing March as National Women's History Month.

WHEREAS, Women of every race, class and ethnic background have made historic contributions to the growth and strength of Kansas and the United States in countless recorded and unrecorded ways; and

WHEREAS, Before the 1970's, women's history was largely missing from the public consciousness. To counter that trend, the education task force of the Sonoma County, California commission on the status of women initiated a women's history week celebration in 1978; and

WHEREAS, In 1987, the national women's history project petitioned congress to expand the celebration to the entire month of March. Since then, the national women's history month resolution has been approved every year with bipartisan support in both the United States house and senate; and

WHEREAS, Kansas has a unique and proud history of women who have led the way for the continued progress and strength of Kansas and the United States. Among these great Kansans are Mabel Chase, the first woman sheriff in the United States, Amelia

Earhart, the first woman pilot to fly solo across the Atlantic Ocean, Georgia Neese Clark Gray, the first woman treasurer of the United States, Peggy Hull, the first woman to become an official war reporter, Hattie McDaniel, the first African American to receive an academy award, Carry Nation, the famed prohibitionist, Susanna Madora Salter, the first woman mayor in the United States and Lucy Hobbs Taylor, the first female dentist in the United States: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* We honor the significant contributions women have made to the history, strength and future of Kansas and the United States by recognizing March as National Women's History Month; and

*Be it further resolved:* That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Kultala.

On emergency motion of Senator Kultala **SR 1834** was adopted unanimously.

### COMMITTEE OF THE WHOLE

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

The morning session recommended:

**SB 211; HB 2056, HB 2339** be passed.

The committee report on **HB 2133** recommending a **Senate Sub HB 2133** be adopted, and the substitute bill be passed.

**SB 142** be amended by the adoption of the committee amendments, and the bill be passed as amended.

**HB 2218** be amended by motion of Senator King, on page 1, in line 11, after "fertilization" by inserting ", the unborn child reacts to touch. By 20 weeks after fertilization" and **HB 2218** be passed as amended.

A motion by Senator Francisco to amend **HB 2218** failed and the following amendment was rejected: on page 1, by striking all in lines 6 through 26; On page 2, by striking all in lines 1 through 24; And by renumbering the remaining sections accordingly; Also on page 2, in line 25, by striking "through 3" and inserting "and 2"; On page 7, in line 14, by striking "3" and inserting "2"

A motion by Senator Francisco to amend **HB 2218** failed and the following amendment was rejected on page 4, in line 30, by striking "medical basis" and inserting "procedures used"; in line 37, by striking "medical basis" and inserting "procedures used"

A motion by Senator Francisco to amend **HB 2218** failed and the following amendment was rejected: on page 2, in line 34, after the period, by inserting "Abortion does not include: (1) The use of any drug or device that inhibits or prevents ovulation, fertilization or the implantation of an embryo; or (2) disposition of the product of in vitro fertilization prior to implantation."

A motion by Senator Francisco to amend **HB 2218** failed and the following amendment was rejected: on page 2, in line 36, by striking "mental or"

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

On roll call, the vote was: Yeas 13, Nays 25, Present and Passing 1, Absent or Not Voting 1.

Yeas: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Schmidt V, Schodorf, Steineger, Teichman, Vratil.

Nays: Abrams, Apple, Bruce, Emler, Kelsey, King, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Taddiken, Umbarger, Wagle.

Present and Passing: Brungardt.

Absent or Not Voting: Donovan.

The motion failed and the amendment was rejected.

A motion by Senator Francisco to amend **HB 2218** failed and the following amendment was rejected: on page 3, in line 12, by striking "an unborn child" and inserting "a fetus"; in line 13, after "more" by inserting "and having a functioning cerebral cortex"

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

On roll call, the vote was: Yeas 13, Nays 26, Present and Passing 0, Absent or Not Voting 1.

Yeas: Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Schmidt V, Schodorf, Steineger, Teichman, Vratil.

Nays: Abrams, Apple, Bruce, Brungardt, Emler, Kelsey, King, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Taddiken, Umbarger, Wagle.

Absent or Not Voting: Donovan.

The motion failed and the amendment was rejected and **HB 2218** be passed as amended.

**HB 2139** be amended by the adoption of the committee amendments, be further amended by motion of Senator Teichman, on page 1, in line 27, after "statute" by inserting ", except that any moneys paid relating to existing claims with the state workers compensation self-insurance fund made by the state fair board shall be assessed to the state fair board until all such claims have been closed and settled" and **HB 2139** be passed as further amended.

The Committee rose and reported progress (see Committee of the Whole, afternoon session.)

On motion of Senator Emler the Senate recessed until 1:30 p.m.

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The Senate met pursuant to recess with Vice President Vratil in the chair.

### CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Ostmeyer moved the Senate concur in House amendments to **SB 122**.

**SB 122**, AN ACT concerning the Kansas water office; relating to easements on state property for conservation projects.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen,

Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The Senate concurred.

On motion of Senator Teichman the Senate nonconcurred in the House amendments to **SB 14** and requested a conference committee be appointed.

The Vice President appointed Senators Teichman, Masterson and A. Schmidt as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **H Sub for SB 37** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, King and Haley as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **H Sub for SB 63** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, King and Haley as a conference committee on the part of the Senate.

On motion of Senator Reitz the Senate nonconcurred in the House amendments to **H Sub for SB 101** and requested a conference committee be appointed.

The Vice President appointed Senators Reitz, Brungardt and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Ostmeyer the Senate nonconcurred in the House amendments to **SB 123** and requested a conference committee be appointed.

The Vice President appointed Senators Ostmeyer, McGinn and Francisco as a conference committee on the part of the Senate.

On motion of Senator Ostmeyer the Senate nonconcurred in the House amendments to **SB 124** and requested a conference committee be appointed.

The Vice President appointed Senators Ostmeyer, McGinn and Francisco as a conference committee on the part of the Senate.

On motion of Senator Teichman the Senate nonconcurred in the House amendments to **SB 136** and requested a conference committee be appointed.

The Vice President appointed Senators Teichman, Masterson and A. Schmidt as a conference committee on the part of the Senate.

On motion of Senator Teichman the Senate nonconcurred in the House amendments to **SB 170** and requested a conference committee be appointed.

The Vice President appointed Senators Teichman, Masterson and A. Schmidt as a conference committee on the part of the Senate.

On motion of Senator Umbarger the Senate nonconcurred in the House amendments to **H Sub for SB 213** and requested a conference committee be appointed.

The Vice President appointed Senators Umbarger, Marshall and Kultala as a conference committee on the part of the Senate.

On motion of Senator Ostmeyer the Senate nonconcurred in the House amendments to **H Sub for SB 214** and requested a conference committee be appointed.

The Vice President appointed Senators Ostmeyer, McGinn and Francisco as a conference committee on the part of the Senate.

**COMMITTEE OF THE WHOLE**

The Senate returned to Committee of the Whole for further consideration of bills on the calendar under the heading of General Orders with Senator Owens in the chair.

On motion of Senator Owens the morning report and the following afternoon report were adopted.

**HB 2035** be amended by adoption of the committee amendments, be further amended by motion of Senator Vratil, on page 19, in line 17, by striking "Kansas register" and inserting "statute book"

**HB 2035** be further amended by motion of Senator Kelly, on page 1, following line 6, by inserting:

"Section 1. K.S.A. 2010 Supp. 38-2223 is hereby amended to read as follows: 38-2223. (a) *Persons making reports.* (1) When any of the following persons has reason to suspect that a child has been harmed as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsections (b) and (c);

(A) The following persons providing medical care or treatment: Persons licensed to practice the healing arts, dentistry and optometry; persons engaged in postgraduate training programs approved by the state board of healing arts; licensed professional or practical nurses; and chief administrative officers of medical care facilities;

(B) the following persons licensed by the state to provide mental health services: Licensed psychologists, licensed masters level psychologists, licensed clinical psychotherapists, licensed social workers, licensed marriage and family therapists, licensed clinical marriage and family therapists, licensed professional counselors, licensed clinical professional counselors and registered alcohol and drug abuse counselors;

(C) teachers, school administrators or other employees of an educational institution which the child is attending and persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child; ~~and~~

(D) firefighters, emergency medical services personnel, law enforcement officers, juvenile intake and assessment workers, court services officers and community corrections officers, case managers appointed under K.S.A. 23-1001 et seq., and amendments thereto, and mediators appointed under K.S.A. 23-602, and amendments thereto; *and*

(E) any person employed by or who works as a volunteer for any organization, whether for profit or not-for-profit, that provides social services to pregnant teenagers, including, but not limited to, counseling, adoption services and pregnancy education and maintenance.

(2) In addition to the reports required under subsection (a)(1), any person who has reason to suspect that a child may be a child in need of care may report the matter as provided in subsection (b) and (c).

(b) *Form of report.* (1) The report may be made orally and shall be followed by a written report if requested. Every report shall contain, if known: The names and addresses of the child and the child's parents or other persons responsible for the child's care; the location of the child if not at the child's residence; the child's gender, race and

age; the reasons why the reporter suspects the child may be a child in need of care; if abuse or neglect or sexual abuse is suspected, the nature and extent of the harm to the child, including any evidence of previous harm; and any other information that the reporter believes might be helpful in establishing the cause of the harm and the identity of the persons responsible for the harm.

(2) When reporting a suspicion that a child may be in need of care, the reporter shall disclose protected health information freely and cooperate fully with the secretary and law enforcement throughout the investigation and any subsequent legal process.

(c) *To whom made.* Reports made pursuant to this section shall be made to the secretary, except as follows:

(1) When the department of social and rehabilitation services is not open for business, reports shall be made to the appropriate law enforcement agency. On the next day that the department is open for business, the law enforcement agency shall report to the department any report received and any investigation initiated pursuant to K.S.A. 2010 Supp. 38-2226, and amendments thereto. The reports may be made orally or, on request of the secretary, in writing.

(2) Reports of child abuse or neglect occurring in an institution operated by the secretary of social and rehabilitation services or the commissioner of juvenile justice shall be made to the attorney general. All other reports of child abuse or neglect by persons employed by or of children of persons employed by the department of social and rehabilitation services shall be made to the appropriate law enforcement agency.

(d) *Death of child.* Any person who is required by this section to report a suspicion that a child is in need of care and who knows of information relating to the death of a child shall immediately notify the coroner as provided by K.S.A. 22a-242, and amendments thereto.

(e) *Violations.* (1) Willful and knowing failure to make a report required by this section is a class B misdemeanor. It is not a defense that another mandatory reporter made a report.

(2) Intentionally preventing or interfering with the making of a report required by this section is a class B misdemeanor.

(3) Any person who willfully and knowingly makes a false report pursuant to this section or makes a report that such person knows lacks factual foundation is guilty of a class B misdemeanor.

(f) *Immunity from liability.* Anyone who, without malice, participates in the making of a report to the secretary or a law enforcement agency relating to a suspicion a child may be a child in need of care or who participates in any activity or investigation relating to the report or who participates in any judicial proceeding resulting from the report shall have immunity from any civil liability that might otherwise be incurred or imposed.";

And by renumbering the remaining sections accordingly;

On page 19, in line 15, after "Supp." by inserting "38-2223,";

On page 1, in the title, in line 3, after "Supp." by inserting "38-2223,"

**HB 2035** be further amended by motion of Senator Pilcher-Cook, on page 3, in line 14, by striking all after "means"; by striking all in lines 15 through 18 and inserting "the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child

after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy." and **HB 2035** be passed as further amended.

**Sub SB 159** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Bruce, on page 15, following line 6, by inserting the following:

"New Sec. 3. (a) An individual who has been adjudicated as a mentally ill person subject to involuntary commitment for care and treatment, or who is prohibited from shipping, transporting, possessing or receiving firearms or ammunition by subsection (d)(4) or (g)(4) of 18 U.S.C. § 922, may petition for relief of disabilities for the purpose of firearm prohibitions imposed under state and federal laws.

(b) A petitioner shall submit such petition to a court of competent jurisdiction within this state.

(c) The court may only consider petitions for relief due to mental health adjudications or commitments that occurred within the state.

(d) The court shall consider the petition for relief, in accordance with the principles of due process. Such petitioner shall submit, and such court shall receive and consider:

(1) The circumstances regarding the firearm disability imposed by federal law;  
 (2) such petitioner's mental health records;  
 (3) such petitioner's criminal history records; and  
 (4) such petitioner's reputation, developed through character witness statements, testimony or other character evidence.

(e) The court shall grant relief only if such court determines there is clear and convincing evidence that:

(1) The petitioner will not be likely to act in a manner dangerous to public safety; and  
 (2) granting such relief would not be contrary to the public interest.

(f) If the court denies the petition for relief, the petitioner may petition a court of proper jurisdiction for a de novo judicial review of the court's decision to deny such petition.

(g) Documentation of a granted petition shall be submitted to the Kansas bureau of investigation. The Kansas bureau of investigation shall immediately cause such order to be entered into the appropriate state and federal databases.

(h) As used in this section:

(1) "Mentally ill person subject to involuntary commitment for care and treatment" has the same meaning as defined in K.S.A. 59-2946, and amendments thereto.

(2) "Due process" requires that:

(A) The petitioner shall have the opportunity to submit such petitioner's own evidence to the court;

(B) an independent decision maker, other than the individual who gathered the evidence for the court acting on the application, shall review such evidence; and

(C) a record of the proceedings shall be created and maintained for review.

Sec. 4. K.S.A. 2010 Supp. 12-4516a is hereby amended to read as follows: 12-4516a. (a) Any person who has been arrested on a violation of a city ordinance of this state may petition the court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. The petition shall state: (1) The petitioner's full name;

(2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;

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

(4) the crime for which the petitioner was arrested;

(5) the date of the petitioner's arrest; and

(6) the identity of the arresting law enforcement agency.

A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section, except that no fee shall be charged to a person who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, and amendments thereto. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding:

(1) The arrest occurred because of mistaken identity;

(2) a court has found that there was no probable cause for the arrest;

(3) the petitioner was found not guilty in court proceedings; or

(4) the expungement would be in the best interests of justice and (A) charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interest of public welfare, the records should be available for any of the following purposes:

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

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

(3) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed

appropriate by the executive director of the Kansas lottery;

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

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

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

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

(8) in any other circumstances which the court deems appropriate.

(f) *The court shall make all expunged records and related information in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:*

(1) *Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or*

(2) *providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.*

(g) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

~~(g)~~(h) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

Sec. 5. K.S.A. 2010 Supp. 22-2410 is hereby amended to read as follows: 22-2410. (a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(b) When a petition for expungement is filed, the court shall set a date for hearing on such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. When a petition for expungement is filed, the official court file shall be separated from the other records of the court, and shall be disclosed only to a judge of the court and members of the staff of the court designated by a judge of the district court, the prosecuting attorney, the arresting law enforcement agency, or any other person when authorized by a court order, subject to any conditions imposed by the order. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after the effective date of this act through June

30, 2011, the supreme court may impose an additional charge, not to exceed \$15 per docket fee, to fund the costs of nonjudicial personnel. The petition shall state:

- (1) The petitioner's full name;
- (2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;
- (3) the petitioner's sex, race and date of birth;
- (4) the crime for which the petitioner was arrested;
- (5) the date of the petitioner's arrest; and
- (6) the identity of the arresting law enforcement agency.

No surcharge or fee shall be imposed to any person filing a petition pursuant to this section, who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, and amendments thereto. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(c) At the hearing on a petition for expungement, the court shall order the arrest record and subsequent court proceedings, if any, expunged upon finding:

- (1) The arrest occurred because of mistaken identity;
- (2) a court has found that there was no probable cause for the arrest;
- (3) the petitioner was found not guilty in court proceedings; or
- (4) the expungement would be in the best interests of justice and (A) charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes:

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

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

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

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

(5) in any application for a commercial driver's license under K.S.A. 8-2,125

through 8-2,142, and amendments thereto;

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

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

(8) in any other circumstances which the court deems appropriate.

(f) *The court shall make all expunged records and related information in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:*

(1) *Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or*

(2) *providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.*

(g) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(g)(h) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as directed by the order of expungement or when requested by the person whose arrest record was expunged.

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

Sec. 6. K.S.A. 22-4701 is hereby amended to read as follows: 22-4701. As used in this act, unless the context clearly requires otherwise:

(a) "Central repository" means the criminal justice information system central repository created by this act and the juvenile offender information system created pursuant to K.S.A. ~~20072010~~ Supp. 38-2326, and amendments thereto.

(b) "Criminal history record information" means *all* data initiated or collected by a criminal justice agency on a person pertaining to a reportable event, *and any supporting documentation*. ~~The term~~ *Criminal history record information* does not include:

(1) Data contained in intelligence or investigatory files or police work-product records used solely for police investigation purposes;

(2) wanted posters, police blotter entries, court records of public judicial proceedings or published court opinions;

(3) data pertaining to violations of the traffic laws of the state or any other traffic law or ordinance, other than vehicular homicide; or

(4) presentence investigation and other reports prepared for use by a court in the exercise of criminal jurisdiction or by the governor in the exercise of the power of pardon, reprieve or commutation.

(c) "Criminal justice agency" means any government agency or subdivision of any such agency which is authorized by law to exercise the power of arrest, detention, prosecution, adjudication, correctional supervision, rehabilitation or release of persons suspected, charged or convicted of a crime and which allocates a substantial portion of

its annual budget to any of these functions. The term includes, but is not limited to, the following agencies, when exercising jurisdiction over criminal matters or criminal history record information:

(1) State, county, municipal and railroad police departments, sheriffs' offices and countywide law enforcement agencies, correctional facilities, jails and detention centers;

(2) the offices of the attorney general, county or district attorneys and any other office in which are located persons authorized by law to prosecute persons accused of criminal offenses;

(3) the district courts, the court of appeals, the supreme court, the municipal courts and the offices of the clerks of these courts;

(4) the Kansas sentencing commission;

(5) the Kansas parole board; and

(6) the juvenile justice authority.

(d) "Criminal justice information system" means the equipment (including computer hardware and software), facilities, procedures, agreements and personnel used in the collection, processing, preservation and dissemination of criminal history record information.

(e) "Director" means the director of the Kansas bureau of investigation.

(f) "Disseminate" means to transmit criminal history record information in any oral or written form. The term does not include:

(1) The transmittal of such information within a criminal justice agency;

(2) the reporting of such information as required by this act; or

(3) the transmittal of such information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.

(g) "Reportable event" means an event specified or provided for in K.S.A. 22-4705, and amendments thereto.

Sec. 7. K.S.A. 22-4705 is hereby amended to read as follows: 22-4705. (a) The following events are reportable events under this act:

(1) Issuance of an arrest warrant;

(2) an arrest;

(3) release of a person after arrest without the filing of a charge;

(4) dismissal or quashing of an indictment or criminal information;

(5) an acquittal, conviction or other disposition at or following trial, including a finding of probation before judgment;

(6) imposition of a sentence;

(7) commitment to a correctional facility, whether state or locally operated;

(8) release from detention or confinement;

(9) an escape from confinement;

(10) a pardon, reprieve, commutation of sentence or other change in a sentence, including a change ordered by a court;

(11) judgment of an appellate court that modifies or reverses the lower court decision;

(12) order of a court in a collateral proceeding that affects a person's conviction, sentence or confinement, including any expungement or annulment of arrests or convictions pursuant to state statute; and

(13) any other event arising out of or occurring during the course of criminal justice proceedings declared to be reportable by rule or regulation of the director.

(b) There is hereby established a criminal justice information system central repository for the collection, storage, and dissemination of criminal history record information. The central repository shall be operated by the Kansas bureau of investigation under the administrative control of the director.

(c) Except as otherwise provided by this subsection, every criminal justice agency shall report criminal history record information, whether collected manually or by means of an automated system, to the central repository, in accordance with rules and regulations adopted pursuant to this act. A criminal justice agency shall report to the central repository those reportable events involving a violation of a county resolution or city ordinance only when required by rules and regulations adopted by the director.

(d) Reporting methods may include:

(1) Submittal of criminal history record information by a criminal justice agency directly to the central repository;

(2) if the information can readily be collected and reported through the court system, submittal to the central repository by the administrative office of the courts; or

(3) if the information can readily be collected and reported through criminal justice agencies that are part of a geographically based information system, submittal to the central repository by the agencies.

(e) Nothing in this section shall prevent a criminal justice agency from maintaining more detailed information than is required to be reported to the central repository. However, the dissemination of that criminal history record information is governed by the provisions of this act.

(f) The director may determine, by rule and regulation, the reportable events to be reported by each criminal justice agency, in order to avoid duplication in reporting.

(g) *No court or criminal justice agency may assess fees or charges against the central repository for providing criminal history record information created prior to, on or after July 1, 2011.*

Sec. 8. K.S.A. 2010 Supp. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in subsection (b) *and (c)*, any records or files specified in this code concerning a juvenile may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or, if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, *prior to its repeal, or section 37 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, murder in the first degree, K.S.A. 21-3402, *prior to its repeal, or section 38 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, murder in the second degree, K.S.A. 21-3403, *prior to its repeal, or section 39 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, voluntary manslaughter, K.S.A. 21-3404, *prior to its repeal, or section 40 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, involuntary manslaughter, K.S.A. 21-3439, *prior to its repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, capital murder, K.S.A. 21-3442, *prior to its repeal*, ~~and amendments thereto~~, involuntary manslaughter while

driving under the influence of alcohol or drugs, K.S.A. 21-3502, *prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, rape, K.S.A. 21-3503, *prior to its repeal, or subsection (a) of section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, indecent liberties with a child, K.S.A. 21-3504, *prior to its repeal, or subsection (b) of section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, aggravated indecent liberties with a child, K.S.A. 21-3506, *prior to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, aggravated criminal sodomy, K.S.A. 21-3510, *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, indecent solicitation of a child, K.S.A. 21-3511, *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, aggravated indecent solicitation of a child, K.S.A. 21-3516, *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, sexual exploitation, K.S.A. 21-3603, *prior to its repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, aggravated incest, K.S.A. 21-3608, *prior to its repeal, or subsection (a) of section 78 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, endangering a child, K.S.A. 21-3609, *prior to its repeal, or section 79 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto, abuse of a child, or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

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

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

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

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

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

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

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

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

~~(f)~~ (g) *A certified copy* of any order made pursuant to subsection (a) or ~~(e)~~ (d) shall be sent to ~~each public officer and agency in the county having possession of any~~ the Kansas bureau of investigation, which shall notify every juvenile or criminal justice agency which may possess records or files ordered to be expunged. If the ~~officer or~~ officer or agency fails to comply with the order within a reasonable time after its receipt, ~~the officer or~~ such agency may be adjudged in contempt of court and punished accordingly.

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

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

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

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed

appropriate by the executive director of the Kansas lottery;

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

(8) the Kansas sentencing commission; *or*

(9) *the Kansas bureau of investigation, for the purposes of:*

(A) *Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or*

(B) *providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.*

(l) *The provisions of subsection (k)(9) shall apply to all records created prior to, on and after July 1, 2011.*

Sec. 9. Section 254 of chapter 136 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 254. (a) (1) Except as provided in subsections (b) ~~and (e)~~, (c) and (d), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

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

(1) Vehicular homicide, as defined by ~~in~~ *K.S.A. 21-3405, prior to its repeal, or section 41 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, or as prohibited by any law of another state which is in substantial conformity with that statute;*

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

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto,

or resulting from the violation of a law of another state which is in substantial conformity with that statute;

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

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

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

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

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

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

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

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

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

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

(5) indecent solicitation of a child or aggravated indecent solicitation of a child as defined in *K.S.A. 21-3510 or 21-3511, prior to their repeal, or section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments thereto;

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

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

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

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

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

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

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

(13) voluntary manslaughter as defined in *K.S.A. 21-3403, prior to its repeal, or*

section 39 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;

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

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

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

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

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

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

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

~~(d)~~ (e) (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecutor and the arresting law enforcement agency. The petition shall state the:

(A) Defendant's full name;

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

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

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

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

(F) identity of the convicting court, arresting law enforcement authority or diverting authority.

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

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

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

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

petitioner;

- (2) the circumstances and behavior of the petitioner warrant the expungement;
- (3) the expungement is consistent with the public welfare.

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

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. ~~2009~~2010 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The person whose record was expunged;

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

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

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

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

(6) a prosecutor, and such request is accompanied by a statement that the request

is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

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

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

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

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

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

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

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

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

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

(17) *the Kansas bureau of investigation for the purposes of:*

(A) *Completing a person's criminal history record information within the central repository, in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or*

(B) *providing information or documentation to the federal bureau of investigation,*

*in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.*

⊕ (k) *The provisions of subsection (j)(17) shall apply to records created prior to, on and after July 1, 2011."*

And by renumbering the remaining sections accordingly;

Also on page 15, in line 7, by striking all after "K.S.A."; in line 8, by striking "section 247" and inserting "22-4701 and 22-4705 and K.S.A. 2010 Supp. 12-4516a, 21-4610a, 21-4619, 22-2410, 22-3717, 22-3717c and 38-2312 and sections 247 and 254";

On page 1, in the title, in line 4, by striking all after the semicolon; by striking all in lines 5 through 7 and inserting "expunged records; petitions for relief; amending K.S.A. 22-4701 and 22-4705 and K.S.A. 2010 Supp. 12-4516a, 22-2410, 22-3717 and 38-2312 and sections 247 and 254 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections; also repealing K.S.A. 2010 Supp. 21-4610a, 21-4619 and 22-3717c."

A motion by Senator Haley to amend **Sub SB 159** failed and the following amendment was rejected: on page 1, following line 9, by inserting the following:

"New Section 1. (a) As used in this section:

(1) "Custodial interrogation" retains the meaning prescribed to it by the United States and Kansas constitutions.

(2) "Place of detention" means a building under the control of a law enforcement unit, a courthouse holding facility for defendants in the custody of a jail or prison, a city or county jail or work release facility, a state prison, or a state security hospital or a facility operated by the department of social and rehabilitation services for the purposes provided for under K.S.A. 59-29a02 et seq., and amendments thereto.

(3) "Video recording" means to capture the visual and audio components of an event in a manner that allows the event to be observed through that medium.

(b) (1) Effective July 1, 2011, except as provided in subsection (c), if a place of detention is equipped with one or more rooms capable of making a video recording, a video recording shall be made of a custodial interrogation conducted in such place of detention when the interrogation concerns an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 felony crime. The recording shall include the advice of rights. The recording shall not end until the interrogation is concluded. If the defendant elects to make or sign a written statement during the course of a custodial interrogation, the making and signing of the writing shall be recorded.

(2) Effective July 1, 2012, except as provided in subsection (c), a video recording shall be made of a custodial interrogation conducted in any place of detention when the interrogation concerns an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 felony crime. The recording shall include the advice of rights. The recording shall not end until the interrogation is concluded. If the defendant elects to make or sign a written statement during the course of a custodial interrogation, the making and signing of the writing shall be recorded.

(c) A video recording of a statement under subsection (b) is not required if the oral, written or sign language statement was made:

(1) During an interrogation that was not recorded as required by subsection (b) because video recording was not feasible;

(2) spontaneously and not in response to a question;

(3) voluntarily, whether or not the result of an interrogation, and the statement has a bearing on the credibility of the accused as a witness;

(4) after questioning that is routinely asked during the processing of the arrest of a suspect;

(5) in an interrogation outside the state of Kansas;

(6) at a time when the interrogators are unaware that an offense covered by subsection (b) has occurred; or

(7) at a time when the person being interrogated is not a suspect for the offense to which the statement relates while the person is being interrogated for an offense other than an offense specified in subsection (b).

(d) If the court finds by a preponderance of the evidence that the defendant was subjected to an interrogation in violation of this section, the defendant shall be entitled to a jury instruction on the failure to record the interrogation. If the defendant requests such an instruction, the court shall instruct the jury that it is the law of Kansas to make a video recording of a custodial interrogation of a person suspected of committing the offense charged.

(e) Every video recording required under this section shall be preserved until the defendant's conviction for an offense relating to the statement is final and all direct appeals are exhausted, or until the prosecution of offenses related to the recorded statement is barred by law, whichever occurs later.

(f) Every video recording of any statement as required by this section shall be confidential and exempt from the Kansas open records act in accordance with K.S.A. 45-221, and amendments thereto."

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 2, after "to" by inserting "evidence and videotaping of felony interrogations;"

and **SB 159** be passed as amended.

**Senate Sub for HB 2249** be passed over and retain a place on the calendar.

#### **REPORT ON ENGROSSED BILLS**

**SB 227** reported correctly engrossed March 22, 2011.

**SB 220** reported correctly engrossed March 23, 2011.

#### **REPORT ON ENROLLED BILLS**

**SR 1833** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 23, 2011.

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

On motion of Senator Emler an emergency was declared by a 2/3 constitutional majority, and **SB 142**, **Sub SB 159**, **SB 211**; **HB 2035**, **HB 2056**, **HB 2133**, **HB 2139**, **HB 2218** and **HB 2339** were advanced to Final Action and roll call.

**SB 142**, AN ACT concerning evidence in civil actions; expressions of apology, sympathy, commiseration or condolence not admissible as evidence of an admission of liability or as evidence of an admission against interest.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

**Sub SB 159**, AN ACT concerning crimes, punishment and criminal procedure; relating to conditions of release; searches of parolees and persons on postrelease supervision; conditions for sex offenders; conditions for persons on probation; repealing K.S.A. 2010 Supp. 21-4610a and 22-3717c.

On roll call, the vote was: Yeas 24, Nays 12, Present and Passing 3, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Hensley, Kelly, Kelsey, Kultala, Longbine, Love, Lynn, Marshall, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt A, Steineger, Taddiken, Teichman, Umbarger, Wagle.

Nays: Brungardt, Faust-Goudeau, Francisco, Haley, Huntington, King, Morris, Owens, Reitz, Schmidt V, Schodorf, Vratil.

Present and Passing: Emler, Holland, McGinn.

Absent or Not Voting: Donovan.

The substitute bill passed, as amended.

#### EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote “NO” on **SB 159**. Under duress (that is, “sign a waiver consenting to be searched at all times or remain in prison”), an inmate waives their fourth and fifth amendment constitutional rights. (Prohibiting illegal search and seizures; Right against self-incrimination.) Can this be legal?

And is a search-of-person limited to the body of that person or expansive to include the car or the house? It is wrong to provide this foundation for legitimized harassment by stop-and-frisks done only because of parolee status. Imagine standing around at a function with associates and some random officer walks up and, with the force of this law, embarrasses the parolee for no reason. We should allow some modicum of respect of *All* people; irrespective of their past transgression(s). – DAVID HALEY

**SB 211**, AN ACT concerning pharmacists; relating to dispensing prescriptions; amending K.S.A. 2010 Supp. 65-1637 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

**HB 2035**, AN ACT concerning abortion; regarding certain prohibitions on late-term and partial birth abortion; amending K.S.A. 65-445, 65-6701, 65-6703, 65-6705 and 65-6721 and K.S.A. 2010 Supp. 38-2223, 65-6709 and 65-6710 and repealing the existing sections; also repealing K.S.A. 65-6713.

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

Yeas: Abrams, Apple, Bruce, Emler, Kelsey, King, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Schmidt A, Taddiken, Umbarger, Wagle.

Nays: Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Vratil.

Absent or Not Voting: Donovan.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote “NO” on **HB 2035** for a number of reasons. This bill makes an extraordinary number of changes to our existing statutes: it changes the definition of viable to remove the reference to the application of extraordinary measures, it calls for providing a woman with information that “the abortion will terminate the life of a whole, separate, unique, living human being” whether or not the physician has advised that that is the case, by changing notification to consent, it changes the access that minors may have to obtaining an abortion, it removes the existing civil immunity for physicians who comply with the statutes, and the public reporting detailing the number and nature of judicial bypass waivers may interfere with the independence of the judiciary. Most importantly this bill does nothing to prevent unintended pregnancies or show compassion for women who find themselves in extraordinarily difficult situations. I would hope that in the future we can find a more positive direction and truly move the state forward in expanding access to neonatal health care and reducing infant mortality. – MARCI FRANCISCO

Senators Faust-Goudeau, Haley, Hensley, Kultala and Teichman request the record to show they concur with the “Explanation of Vote” offered by Senator Francisco on **HB 2035**.

**HB 2056**, AN ACT relating to the state bank commissioner; concerning the examination and annual assessment of certain financial institutions; amending K.S.A. 2010 Supp. 9-1703 and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

**S Sub for HB 2133**, AN ACT concerning state funds; relating to moneys recovered

from water litigation; relating to funding for local health departments.; amending K.S.A. 65-242, 82a-1801 and 82a-1802 and K.S.A. 2010 Supp. 82a-1803, 82a-1804 and 82a-1805 and repealing the existing sections.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The substitute bill passed.

**HB 2139**, AN ACT concerning insurance; relating to rates and rate modifications for workers compensation insurance; authorizing the state fair board to purchase workers compensation insurance; amending K.S.A. 40-954 and 40-2109 and K.S.A. 2010 Supp. 40-955 and repealing the existing sections.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed, as amended.

**HB 2218**, AN ACT concerning abortion; relating to restrictions on late term abortions; amending K.S.A. 65-445 and repealing the existing section.

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

Yeas: Abrams, Apple, Bruce, Emler, Kelsey, King, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt A, Taddiken, Teichman, Umbarger, Wagle.

Nays: Brungardt, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kultala, Owens, Reitz, Schmidt V, Schodorf, Steineger, Vratil.

Absent or Not Voting: Donovan.

The bill passed, as amended.

#### EXPLANATION OF VOTE

MR. VICE PRESIDENT: I vote “NO” on **HB 2218**. I want our statutes to be compassionate, both to unborn children and to their mothers and families. I had hoped that the body might consider adopting the amendment to this bill that would, for me, more accurately identify an unborn child as one possessing a cerebral cortex and truly capable of pain. Without that change, I cannot support this bill. – MARCI FRANCISCO

Senators Faust-Goudeau, Hensley, Kelly, Kultala and Owens request the record to show they concur with the “Explanation of Vote” offered by Senator Francisco on **HB 2118**.

**HB 2339**, AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 8-254, 8-285, 8-1450, 9-2004, 19-101d, 19-27,139, 19-4804, 20-369, 22-2411, 22-2615, 22-2307, 22-2908, 22-3008, 22-3102, 22-3414, 22-3415, 22-3427, as amended by section 306 of chapter 136 of the 2010 Session Laws of Kansas, 22-3429, 22-3436, 22-3439, 22-3602, 22-3701, 22-3725, 22-4807a, 34-228, 34-249a, 36-602, 38-1132, 39-720, 39-785, 41-206, 44-1039, 46-920, 47-653c, 47-1715, 50-618, 50-648, 50-651, 50-653, 57-227, 58-2573, 60-523, 60-1620, 60-2610, 60-4111, 60-4402, 60-4404, 60-4405, 65-444, 65-1120, 65-2006, 65-2859, 65-28,108, 65-28a05, 65-4209, 65-6703, 65-6721, 68-422a, 74-7325, 74-7333, 75-4004, 75-5233 and 75-5269; K.S.A. 2009 Supp. 8-1567, as amended by section 3 of chapter 153 of the 2010 Session Laws of Kansas; K.S.A. 2010 Supp. 8-116a, 8-255, 8-262, 8-287, 8-2,144, 8-1013, 8-1102, 8-2106, 8-2117, 8-2410, 12-16,119, 12-4104, 12-4516, 12-4516a, 12-4517, 17-12a508, 20-2207, 20-2208, 20-3207, 21-3212a, 21-3220, 21-3221, 21-36a03, 22-2310, 22-2410, 22-2512, 22-2802, 22-2901, 22-2909, 22-3212, 22-3303, 22-3426, 22-3716, 22-3717, 22-3727, 22-3727a, 22-4614, 22-4616, 22-4617, 22-4902, 22-4906, 28-177, 32-1013, 32-1047, 32-1063, 36-604, 38-2202, 38-2255, 38-2271, 38-2302, 38-2303, 38-2309, 38-2310, 38-2312, 38-2313, 38-2326, 38-2331, 38-2355, 38-2356, 38-2361, 38-2364, 38-2365, 38-2371, 38-2377, 39-970, 40-252, 40-2,118, 40-1702, 40-3213, 41-346, 41-2611, 41-2708, 41-2905, 41-2906, 44-5,125, 44-706, 44-719, 44-1131, 45-217, 45-221, 45-230, 47-1706, 47-1707, 58-3043, 58-3068, 58-4505, 59-2132, 59-2948, 59-29a02, 59-29a07, 59-29a14, 59-29b48, 60-312, 60-455, 60-1610, 60-1629, 60-3107, 60-31a06, 60-4104, 60-4105, 60-4113, 60-4119, 60-4403, 60-5001, 65-448, 65-516, 65-1436, 65-1627, 65-2434, 65-2836, 65-5117, 66-2304, 72-1397, 72-5445, 74-4924, 74-5602, 74-7301, 74-7305, 74-8702, 74-9101, 75-452, 75-453, 75-755, 75-7b01, 75-7b13, 75-7c03, 75-7c04, 75-7c05, 75-7c09, 75-7c17, 75-7c19, 75-7c26, 75-1508, 75-4362, 75-5133, 75-5218, 75-5291, 75-52,127, 75-52,144, 75-52,148 and 76-11a13; and Sections 2, 11, 21, 22, 23, 24, 25, 26, 28, 33, 34, 35, 39, 47, 48, 49, 52, 53, 56, 57, 60, 61, 62, 64, 67, 68, 70, 74, 76, 78, 79, 88, 96, 98, 105, 136, 139, 141, 147, 158, 159, 164, 177, 183, 186, 187, 188, 189, 190, 192, 194, 198, 209, 212, 223, 225, 228, 230, 232, 242, 243, 244, 247, 248, 254, 257, 259, 260, 262, 266, 267, 268, 269, 271, 285, 291, 292, 294, 298, 299 and 302 of chapter 136 of the 2010 Session Laws of Kansas and repealing the existing sections; also repealing K.S.A. 22-3220, K.S.A. 2009 Supp. 21-3110, as amended by section 5 of chapter 101 of the 2010 Session Laws of Kansas, 21-3412a, as amended by section 6 of chapter 101 of the 2010 Session Laws of Kansas, 21-4603d, as amended by Section 7 of chapter 101 of the 2010 Session Laws of Kansas, 21-4704, as amended by section 6 of chapter 147 of the 2010 Session Laws of Kansas; K.S.A. 2010 Supp. 8-1567, 21-3105, 21-3211, 21-3212, 21-3213, 21-3214, 21-3215, 21-3216, 21-3217, 21-3218, 21-3301, 21-3302, 21-3303, 21-3437, 21-3446, 21-3447, 21-3449, 21-3450, 21-3502, 21-3504, 21-3506, 21-3513, 21-3516, 21-3520, 21-3608a, 21-3826, 21-4018, 21-4201, 21-4203, 21-4204, 21-4218, 21-4226, 21-4311, 21-4316, 21-4603d, 21-4610a, 21-4619, 21-4623, 21-4624, 21-4632, 21-4634, 21-4642, 21-4643, 21-4704, 21-4710, 21-4718, 22-3212a, 22-3717c, 38-2255a and 65-516b and repealing the existing section.

On roll call, the vote was: Yeas 39, Nays 0, Present and Passing 0, Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Emler, Faust-Goudeau, Francisco, Haley,

Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt A, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Donovan.

The bill passed.

#### MESSAGE FROM THE HOUSE

Announcing passage of **HB 2336**.

Announcing passage of **SB 103, SB 119, SB 185, SB 212**.

Also, passage of **SB 10**, as amended; **SB 11**, as amended; **SB 115**, as amended; **SB 125**, as amended; **SB 134**, as amended; **SB 150**, as amended.

Also passage of **SB 23** as amended by **House Substitute for SB 23; SB 55**, as amended by **House Substitute for SB 55; Substitute SB 127**, as amended by **House Substitute for Substitute SB 127; SB 129** as amended by **House Substitute for SB 129**.

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2336** was thereupon introduced and read by title.

#### CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Apple the Senate nonconcurred in the House amendments to **SB 10** and requested a conference committee be appointed.

The Vice President appointed Senators Apple, King and Holland as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **H Sub SB 23** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, King and Haley as a conference committee on the part of the Senate.

On motion of Senator Owens the Senate nonconcurred in the House amendments to **H Sub for SB 55** and requested a conference committee be appointed.

The Vice President appointed Senators Owens, King and Haley as a conference committee on the part of the Senate.

On motion of Senator V. Schmidt the Senate nonconcurred in the House amendments to **SB 76** and requested a conference committee be appointed.

The Vice President appointed Senators V. Schmidt, Brungardt and Kelly as a conference committee on the part of the Senate.

On motion of Senator Huntington the Senate nonconcurred in the House amendments to **SB 125** and requested a conference committee be appointed.

The Vice President appointed Senators Huntington, V. Schmidt and Kultala as a conference committee on the part of the Senate.

On motion of Senator Huntington the Senate nonconcurred in the House amendments to **H Sub for Sub SB 127** and requested a conference committee be appointed.

The Vice President appointed Senators Huntington, V. Schmidt and Kultala as a conference committee on the part of the Senate.

On motion of Senator Huntington the Senate nonconcurred in the House amendments

to **H Sub for SB 129** and requested a conference committee be appointed.

The Vice President appointed Senators Huntington, V. Schmidt and Kultala as a conference committee on the part of the Senate.

On motion of Senator V. Schmidt the Senate nonconcurrent in the House amendments to **SB 134** and requested a conference committee be appointed.

The Vice President appointed Senators V. Schmidt, Brungardt and Kelly as a conference committee on the part of the Senate.

On motion of Senator Brungardt the Senate nonconcurrent in the House amendments to **SB 150** and requested a conference committee be appointed.

The Vice President appointed Senators Brungardt, Reitz and Faust-Goudeau Reitz as a conference committee on the part of the Senate.

### CHANGE OF REFERENCE

The Vice President withdrew **S Sub HB 2080** from the Calendar under the heading of General Orders and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2184** from the Calendar under the heading of General Orders and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2241** from Calendar under the heading of General Orders and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **S Sub for HB 2249** from Calendar under the heading of General Orders and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2031** from the Committee on **Judiciary**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2042** from the Committee on **Judiciary**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **Sub HB 2069** from the Committee on **Judiciary**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2196** from the Committee on **Judiciary**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2157** from the Committee on **Assessment and Taxation**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **Sub HB 2004** from the Committee on **Education**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2200** from the Committee on **Education**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2077** from the Committee on **Financial Institutions and Insurance**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2141** from the Committee on **Utilities**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2267** from the Committee on **Utilities**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2034** from the Committee on **Transportation**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2169** from the Committee on **Transportation**, and referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2230** from the Committee on **Transportation**, and

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referred the bill to the Committee on **Ways and Means**.

The Vice President withdrew **HB 2128** from the Committee on **Ethics and Elections**, and referred the bill to the Committee on **Ways and Means**.

On motion of Senator Emler, the Senate adjourned until 10:00 a.m., Monday, March 28, 2011.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

