

Journal of the Senate

SIXTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, May 2, 2001—10:00 a.m.

The Senate was called to order by Vice-President Sandy Praeger.
The roll was called with thirty-seven senators present.
Senators Allen, Barnett and Donovan were excused.
Vice-President Praeger introduced Senator Lyon, who delivered the invocation:

Heavenly Father,

On the day before our National Day of Prayer, we pause to reflect upon your prescriptions for civil government and civil servants.

"Righteousness exalts a nation". You've established this nation in your Providence. The pioneers who moved west into Kansas did so with your Scriptures in their hands. We pray as we evaluate the decisions of our day, we would use the objective standard of your word to govern righteously.

"Why do the nations conspire and the peoples plot in vain? The kings of the earth take their stand and the rulers gather together against the Lord and against his Anointed One. Let us break their chains, they say, and throw off their fetters." Let it never be said of us that we have attempted to throw off your authority. May it rather be said of us "Blessed are they, whose God is the Lord".

"If my people, who are called by my name, will humble themselves and pray and seek my face and turn from their wicked ways, then I will hear from heaven and will forgive their sin and will heal their land." Let us labor to restore that which is true, right and just. Grant us the moral stamina to reaffirm the character of Kansas, in acknowledging your sovereignty and authority.

"Except the Lord build the house, they labor in vain that build it." We pray for your blessings and your wisdom on our deliberations today.

In Christ's Name,

Amen

PRESENTATION OF PETITIONS

The following petitions were presented, read and filed:

SP 11, by Senator Tim Huelskamp: A petition requesting your vote against any increase in beer tax, signed by Wayne Blackburn and eight other patrons of Comanche Beverage in Dodge City.

SP 12, by Senator Tim Huelskamp: A petition requesting your vote against any increase in beer tax, signed by Damon Post and four other patrons of Wyatt Earp Liquor in Dodge City.

SP 13, by Senator Tim Huelskamp: A petition requesting your vote against any increase in beer tax, signed by Megan Charles and 16 other patrons of Kate's in Dodge City.

SP 14, by Senator Tim Huelskamp: A petition requesting your vote against any increase in beer tax, signed by Veronica Davis and five other patrons of Pegram Liquor in Dodge City.

SP 15, by Senator Tim Huelskamp: A petition requesting your vote against any increase in beer tax, signed by Julie Gleason and three other patrons of Mr. G's of Dodge City.

SP 16, by Senator Tim Huelskamp: A petition requesting your vote against any increase in beer tax, signed by K. Hughes and 10 other patrons of Brushfire of Dodge City.

SP 17, by Senator Tim Huelskamp: A petition requesting your vote against any increase in beer tax, signed by Juan Martinez and 14 other patrons of Lucky Liquor #2 in Dodge City.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 367, An act concerning counties; relating to the procedure for the incorporation thereof; amending K.S.A. 15-123 and repealing the existing section, by Committee on Ways and Means.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 294**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Morris moved the Senate concur on house amendments to **SB 294**.

SB 294, An act concerning the Kansas chemical control act; relating to the chemical control fund; amending K.S.A. 2000 Supp. 65-7012 and repealing the existing section.

On roll call, the vote was: Yeas 35, Nays 0, Present and Passing 0, Absent or Not Voting 5.

Yeas: Adkins, Barone, Brownlee, Brungardt, Clark, Corbin, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Allen, Barnett, Donovan, Haley, Pugh.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 343**, submits the following report:

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

On page 2, by striking all in lines 40 to 43;

On page 3, by striking all in lines 1 through 5 and inserting the following:

"New Sec. 3. The activities of the secretary of health and environment in implementing and maintaining the vital statistics integrated information system in the department of health and environment and in acquiring financing for acquisition of equipment, technology, software, related capital improvements for remodeling or renovating and operating expenditures for the implementation and maintenance of the vital statistics integrated information system in the department of health and environment are hereby approved for the department of health and environment for the purposes of subsection (b) of K.S.A. 74-8905 and amendments thereto and the authorization of one or more series of revenue bonds by the Kansas development finance authority in accordance with that statute.";

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

KENNY A. WILK
MELVIN NEUFELD
ROCKY NICHOLS

Conferees on part of House

STEPHEN R. MORRIS
 DAVID ADKINS
 PAUL FELECIANO, JR.
Conferees on part of Senate

Senator Morris moved the Senate adopt the Conference Committee Report on **SB 343**.
 On roll call, the vote was: Yeas 24, Nays 11, Present and Passing 0, Absent or Not Voting

5.
 Yeas: Adkins, Brungardt, Clark, Corbin, Downey, Emler, Gooch, Goodwin, Jackson, Jenkins, Jordan, Kerr, Lee, Morris, Oleen, Praeger, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.
 Nays: Barone, Brownlee, Feleciano, Gilstrap, Harrington, Hensley, Huelskamp, Lyon, O'Connor, Salmans, Tyson.
 Absent or Not Voting: Allen, Barnett, Donovan, Haley, Pugh.
 The Conference Committee report was adopted.

CONFIRMATION OF APPOINTMENTS

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

Senator Oleen moved the following appointments be confirmed as recommended by the Standing Senate Committee:

On the appointment to the:

Kansas Development Finance Authority:

Thomas C. Blackburn, term expires January 15, 2005.

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

5.
 Yeas: Adkins, Barone, Brownlee, Brungardt, Clark, Corbin, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.
 Absent or Not Voting: Allen, Barnett, Donovan, Haley, Pugh.
 The appointment was confirmed.

On the appointment to the:

Kansas Development Finance Authority:

John G. Montgomery, term expires January 15, 2005.

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

5.
 Yeas: Adkins, Barone, Brownlee, Brungardt, Clark, Corbin, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.
 Absent or Not Voting: Allen, Barnett, Donovan, Haley, Pugh.
 The appointment was confirmed.

On the appointment to the:

Kansas Development Finance Authority:

Thomas A. Page, term expires January 15, 2005.

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

5.
 Yeas: Adkins, Barone, Brownlee, Brungardt, Clark, Corbin, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.
 Absent or Not Voting: Allen, Barnett, Donovan, Haley, Pugh.
 The appointment was confirmed.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1857—

A RESOLUTION congratulating and commending Robert P. Sigman.

WHEREAS, After 47 years in the newspaper business, Robert P. (Bob) Sigman retired December 31, 2000, as the senior member of the Kansas City Star's editorial board; and

WHEREAS, Bob Sigman started his newspaper career working for the Kansas City Daily Kansan but was hired by the Kansas City Star after the Missouri paper had had enough of Bob's scooping them from his position across the river in Kansas City, Kansas. He went on to cover politics, government and the courts in both Missouri and Kansas. He was an editorial writer for almost 40 years, and served as a member of the Kansas City Star's editorial board since 1971; and

WHEREAS, Bob Sigman became well-known as a crusader for justice, once successfully persuading a Missouri governor to pardon a mentally retarded man who had been wrongfully convicted of murder. He was an expert on the legal justice system from law enforcement and corrections to judges and the nonpartisan court plan in Missouri. He brought about many changes in open meetings and ethics reforms in both Kansas and Missouri by his persistent crusades against corruption and inappropriate behavior. As an editorial writer, he was also advocating for better representation for the people whose government their representatives were supposed to serve; and

WHEREAS, Bob Sigman had a superb memory that became a highly valuable institutional resource at the Star. He had the ability to get to the heart of the issue at hand with a few well phrased questions. He thoroughly enjoyed his work, his mentoring to his colleagues was greatly appreciated and his writing is described as a model for clarity, force and succinctness; and

WHEREAS, Bob Sigman's interest in public affairs was shaped at any early age. His mother had served on the local school board and his father on the city council. He knew he wanted to work for a newspaper when he was 10 years old. A demanding Latin teacher at the University of Kansas set him straight on his life's journey when she impressed on him the value of learning to prepare himself for his life's work; as a result he turned in his equipment as a member of the freshman basketball team the next week. Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Robert P. Sigman upon completion of a long and rewarding career in journalism; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Robert P. Sigman, c/o The Kansas City Star, 1729 Grand Boulevard, Kansas City, Missouri 64108.

On emergency motion of Senator Adkins **SR 1857** was adopted unanimously.

Senator Adkins welcomed and congratulated Robert Sigman on his many years of service.

On motion of Senator Oleen, the Senate recessed until 3:00 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing, the House nonconcur in Senate amendments to **HB 2599**, requests a conference and has appointed Representatives Wilk, Neufeld and Nichols as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2600**, requests a conference and has appointed Representatives Wilk, Neufeld and Nichols as conferees on the part of the House.

The House not adopts the conference committee report on **HB 2480**, requests a conference and appoints Representatives Tomlinson, Dreher and Kirk as second conferees on the part of the House.

The House adopts the conference committee report on **HB 2297**.

The House concurs in Senate amendments to **HB 2208** and requests the Senate to return the bill.

ORIGINAL MOTION

On motion of Senator Teichman, the Senate acceded to the request of the House for a conference on **HB 2480**.

The President appointed Senators Praeger, Teichman and Feleciano as second conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2599**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

ORIGINAL MOTION

Senator Kerr moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **HB 2101**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2101**, submits the following report:

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

On page 2, after line 9, by inserting the following:

“Sec. 3. K.S.A. 83-145 is hereby amended to read as follows: 83-145. (a) The secretary of agriculture, or the secretary’s authorized representative, is authorized to test all weighing and measuring devices used in the retail sale of liquefied petroleum gas, and shall reject all such devices which are found ~~(a)~~ to be inaccurate and ~~(b)~~ to not clearly indicate the quantity of liquefied petroleum gas in kilograms or pounds, liters or gallons, cubic feet or cubic meters or other unit approved by the secretary of agriculture, or the secretary’s authorized representative. ~~It shall be unlawful to use a weighing or measuring device for determining quantities of liquefied petroleum gas which has been rejected by the secretary of agriculture, or the secretary’s authorized representative.~~ The secretary of agriculture, or the secretary’s authorized representative, shall conspicuously mark all rejected devices, ~~which.~~ *Such* mark shall not be removed or defaced except upon authorization of the secretary of agriculture or the secretary’s authorized representatives. It shall be unlawful to use a vapor meter dial which is not equipped with a cubic foot indicator for testing the accuracy of the meter.

(b) It shall be unlawful to use a liquid meter for measuring the volume, in gallons, of liquefied petroleum gas for retail sale from delivery vehicles unless such meter is equipped with a ticket printer for use in issuance of printed tickets showing the volume, in gallons, of the liquefied petroleum gas delivered.

Sec. 4. K.S.A. 83-202 is hereby amended to read as follows: 83-202. (a) Except as provided further:

(1) The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes in the state.

(2) The following standards and requirements shall apply to commercial weighing and measuring devices:

(A) “The standards of the national conference on weights and measures” published in the national institute of standards and technology handbook 44 entitled specifications, tolerances, and other technical requirements for weighing and measuring devices as published on October, 1994 or later versions as established in rules and regulations adopted by the secretary, *except those vehicle scales installed prior to the effective date of this act and used*

solely for the purpose of weighing aggregate products shall be exempt from the provisions contained in section 2.20 scales, table 6 of such handbook. Such aggregate product scales shall have a minimum tolerance of +/- 100 pounds. Such exception shall be in effect for a period of two years from the effective date of this act;

(B) "the uniform laws and regulations of the national conference on weights and measures" published in the national institute of standards and technology handbook 130 regarding packaging and labeling, the method of sale of commodities, national type evaluation regulation, motor fuel inspection and motor fuel regulation, as published on December, 1994 or later versions as established in rules and regulations adopted by the secretary;

(C) "checking the net contents of packaged goods" published in the national institute of standards and technology handbook 133, third edition, as published on September, 1988 or later versions as established in rules and regulations adopted by the secretary;

(D) "checking the net contents of packaged goods" published in the national institute of standards and technology handbook 133, third edition, supplement 4, as published on October, 1994 or later versions as established in rules and regulations adopted by the secretary; and

(E) any other handbooks or sections thereof as adopted by the secretary by rules and regulations.

(b) Whenever there exists an inconsistency between the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and any of the handbooks adopted by reference, the requirements of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, shall control.

Sec. 5. K.S.A. 83-219 is hereby amended to read as follows: 83-219. (a) It shall be unlawful for any ~~owner of a commercial weighing or measuring device~~ *person*:

(1) To offer or expose for sale, or to sell or otherwise dispose of any weight, measure or weighing or measuring device that does not meet the tolerances and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or which has been rejected without first obtaining the written authorization of the secretary;

(2) to use or possess a weight, measure or weighing or measuring device that is used for or intended to be used for commercial purposes which does not meet the tolerance and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or that does not conform to the standard authorized by the secretary for determining the quantity of any commodity or article of merchandise, for the purpose of:

(A) Buying or selling any commodity or article of merchandise;

(B) computation of any charge for services rendered on the basis of weight or measure;

(C) determining weight or measure, either when a charge is made for such determination or where no charge is made for use of such weight, measure, weighing or measuring device;

(3) except as allowed in K.S.A. 83-225, and amendments thereto, to break or remove any tag, mark or seal placed on any weighing or measuring device by the secretary or a county or city inspector of weights and measures, without specific written authorization from the proper authority or to use a weighing or measuring device after the lapse of the authorized period following the placing of a rejection tag thereon by the secretary, unless further extension of time for any repair purposes is first obtained from the secretary;

(4) to sell, offer or expose for sale, less than the represented quantity of any commodity, thing or service;

(5) to take or attempt to take more of the represented quantity of any commodity, thing or service when the buyer furnishes the weight, measure or weighing or measuring device by which the amount of any commodity, thing or service is determined;

(6) to keep for the purpose of sale, or to offer or expose for sale, or to sell any commodity in a manner contrary to the law or contrary to any rule and regulation;

(7) to use in retail trade, except in preparation of packages of merchandise put up in advance of sale, a weighing or measuring device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from a reasonable customer position;

(8) to violate any of the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder, for which a specific penalty is not provided;

(9) to sell or offer for sale, or use or possess for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure;

(10) to dispose of any rejected weight or measure in a manner contrary to law or rules and regulations;

(11) to expose for sale, offer for sale or sell any commodity in package form, without it being so wrapped, or the container so made, formed or filled, that it will not mislead the purchaser as to the quantity of the contents of the package;

(12) to expose for sale, offer for sale or sell any commodity in any container where the contents of the container fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the secretary;

(13) to misrepresent the price of any commodity or service sold, offered, exposed or advertised for sale by weight, measure or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive any person;

(14) to misrepresent, or represent in a manner calculated or tending to mislead or deceive an actual or prospective purchaser, the price of an item offered, exposed or advertised for sale at retail;

(15) to compute or attempt to compute at the time of sale of an item, a value which is not a true extension of a price per unit which is then advertised, posted or quoted;

(16) to charge or attempt to charge, at the time of the sale of an item or commodity, a value which is more than the price which is advertised, posted or quoted;

(17) to alter a weight certificate, use or attempt to use any such certificate for any load or part of a load or for articles or things other than for which the certificate is given, or, after weighing and before the delivery of any articles or things so weighted, alter or diminish the quantity thereof;

(18) to hinder or obstruct in any way the secretary or any of the secretary's authorized agents in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder;

(19) to fail to follow the standards and requirements established in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

(20) to fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

(21) to fail to keep or make available for examination or provide to the secretary all inspection reports, test reports and any other service reports or other information on any device owned or operated by the owner or any agent or employee of the owner and other information necessary for the enforcement of chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder, and as required by the secretary;

(22) to fail to have any commercial weight, measure or weighing and measuring device tested as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder;

(23) to sell or offer or expose for sale liquefied petroleum gas in packages or containers which do not bear a statement as to tare and net weight as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder, or packages or containers which bear a false statement as to weights;

(24) to sell, use, remove, or otherwise dispose of, or fail to remove from the premises specified, any weighing or measuring device or package or commodity contrary to the terms of any order issued by the secretary; ~~and~~

(25) to violate any order issued by the secretary pursuant to chapter 83 of the Kansas Statutes Annotated, and amendments thereto; *and*

(26) *to prohibit a buyer or seller from observing the weighing or operation of any transaction to which such buyer or seller is a party.*

(b) It shall be unlawful for any service company or technical representative to:

(1) Act as or represent such person's self to be a technical representative without having a valid license issued by the department of agriculture;

(2) certify a device as correct unless the device meets the tolerances and specifications as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(3) hinder or obstruct in any way the secretary in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder;

(4) fail to follow the standards and requirements set forth in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

(5) fail to complete the testing or placing-in-service report in its entirety and to report the accurate description of the parts replaced, adjusted, reconditioned or work performed;

(6) file a false or fraudulent service company or technical representative application or reports to the secretary;

(7) fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

(8) fail to keep or make available for examination in an accessible and legible manner or provide to the secretary in a legible manner all inspection reports, test reports, and any other service or report work information on any device which the service company or an agent or employee performed work on and other information necessary for the enforcement of chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder; or

(9) *sell, offer or expose for sale a weighing or measuring device intended to be used commercially, which is not traceable to a national type evaluation program certificate of conformance.*

(c) For the purpose of paragraph (a)(4), the selling and delivery of a stated quantity of any commodity shall be prima facie evidence of representations on the part of the seller that the quantity sold and delivered was the quantity bought by the purchaser.

(d) Violation of this section shall be deemed a deceptive act and practice as defined by K.S.A. 50-626, and amendments thereto. Violations of the provisions of K.S.A. 83-219, and amendments thereto, may be enforced by the secretary under the administrative provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or by the attorney general or a county or district attorney under the Kansas consumer protection act.

Sec. 6. K.S.A. 2000 Supp. 83-304 is hereby amended to read as follows: 83-304. (a) Except as provided by subsection (e), the owner or operator of a weighing and measuring device which is used commercially shall have such weighing and measuring device tested and inspected at least annually for accuracy. The test shall be conducted by either a licensed technical representative employed by a licensed service company or by an authorized representative of any city or county which has established a department of public inspection of weights and measures pursuant to K.S.A. 83-210, and amendments thereto, or by the secretary, which inspects such weighing and measuring device in accordance with rules and regulations adopted by the secretary. If upon inspection by the secretary or an authorized representative of the secretary, it is found that the weighing and measuring device has not been tested and inspected for accuracy and approved within the preceding 365 days, the secretary or the authorized representative of the secretary shall take the weighing and measuring device out of service pursuant to the provisions of K.S.A. 83-215, and amendments thereto. Except as provided further, the test weights or equipment used by the service company shall have been approved and sealed by the secretary pursuant to K.S.A. 83-214, and amendments thereto, within 365 days preceding the date of the tests. Test weights or equipment which has the nominal capacity of 250 pounds or greater, are housed in a grain elevator or similar structure and are used to test scales in grain elevators or similar facilities shall have been approved and sealed by the secretary pursuant to K.S.A. 83-214, and amendments thereto, within three calendar years preceding the date of the test. Except at the option of the city or county which has an established department of public inspection of weights and measures, tests and inspections shall be at the expense of the owner or operator of the weighing and measuring device. In any city or county which has a department of public inspection which inspects such weighing and measuring device, the test may be

conducted by an authorized representative of the city or county weights and measures department. Farmers or ranchers who own and operate a weighing and measuring device used in private treaty transactions are exempt from the annual testing requirements. *Volumetric provers which are stationary or which exceed the testing capacity of the state metrology lab due to engineering design or the capacity of the prover are exempt from the annual testing requirement.*

(b) A service company or the city or county department of public inspection of weights and measures or an authorized representative of the secretary which conducts tests pursuant to this section shall, at the time of testing and inspection, promptly furnish to the owner or operator of the weighing and measuring device a report showing the results of the tests and inspection. The city or county department of public inspection of weights and measures *and service company* reports shall also be sent to the secretary, as required by rules and regulations adopted by the secretary, ~~however~~. No report shall be furnished later than 10 days after the test or inspection of the device has occurred.

(c) Subject to the provisions of K.S.A. 83-215, and amendments thereto, the owner or operator of a weighing and measuring device which is found to be out of the tolerances or specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder, at the time of testing shall withdraw immediately the weighing and measuring device from further use until the necessary corrections, adjustments or repairs are made and the weighing and measuring device is determined to be accurate by a service company or the city or county department of public inspection of weights and measures or an authorized representative of the secretary. Weighing and measuring devices which have been repaired or serviced shall meet the tolerances and specifications established in chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and those rules and regulations adopted by the secretary prior to being placed or returned to service. The service company or the city or county department of public inspection of weights and measures shall notify the secretary of any weighing and measuring devices which are found not to comply with such tolerances and specifications and are thus inaccurate and cannot be adjusted, repaired or serviced so as to comply with the standards and tolerances established in chapter 83 of the Kansas Statutes Annotated, and amendments thereto. Such notification shall be as required by the secretary, pursuant to rules and regulations, ~~however~~. Such notification shall be furnished to the department no later than 10 days after the service company or city or county department of public inspection of weights and measures has found the weighing and measuring device to be in noncompliance with the tolerance and specifications required for such weighing and measuring device. A copy of the report prepared by the service company or city or county department of public inspection of weights and measures or the secretary showing the results of the weighing and measuring device test and the work done to correct any deficiencies shall be filed with the secretary by the service company.

(d) Each service company shall be required to keep at such company's corporate headquarters or at such company's resident agent's office a copy of all reports regarding the installation, repair, calibration and other work the service company or the technical representatives employed by the service company performed on the commercial weighing and measuring devices. Such reports shall be legible and maintained in an accessible manner and for a period of time as established by the secretary pursuant to rules and regulations. The owner or operator of a weighing and measuring device shall also be required to retain copies of all reports regarding the installation, repair or adjustment or any of the aforementioned done to the weighing and measuring device at the site where the measuring and weighing device is used. Such reports shall be legible and maintained in an accessible manner and for a period of time as established by the secretary pursuant to rules and regulations.

(e) The secretary may adopt rules and regulations providing for inspection of vapor meters at intervals less frequently than annually if the secretary determines that annual inspections are not necessary to protect the public interest. In adopting any such rules and regulations, the secretary shall take into consideration the standard for inspections of vapor meters adopted by the national institute of standards and technology of the United States department of commerce.

Sec. 7. K.S.A. 83-404 is hereby amended to read as follows: 83-404. (a) The owner or operator of a dispensing device which is used for commercial purposes shall have such device tested and inspected ~~at least annually for accuracy~~ *at least once within every 18-month period*. The test shall be conducted by either an authorized representative of any city or county which has established a department of public inspection of weights and measures pursuant to K.S.A. 83-210, and amendments thereto, or by the secretary, which inspects such dispensing devices in accordance with rules and regulations adopted by the secretary. If upon inspection by the secretary, it is found that the dispensing device has not been tested and inspected for accuracy and approved within the preceding ~~12 calendar~~ 18 months, the secretary shall take the dispensing device out of service pursuant to the provisions of K.S.A. 83-215, and amendments thereto. The test weights and measures used by the service company shall have been approved and sealed by the secretary pursuant to K.S.A. 83-214, and amendments thereto, every 365 days. Except at the option of the city or county which has an established department of public inspection of weights and measures, annual tests and inspections shall be at the expense of the owner or operator. In any city or county which has a department of public inspection of weights and measures which annually inspects such dispensing devices, the tests may be conducted by an authorized representative of such city or county weights and measures department. Farmers or ranchers who own and operate a dispensing device used in private treaty transactions are exempt from the annual testing requirements.

(b) The city or county department of public inspection of weights and measures or the secretary which conducts tests pursuant to this section, at the time of testing and inspection, shall promptly furnish to the owner or operator a report showing the results of the tests and inspection. Such reports shall also be sent to the secretary, as required by rules and regulations adopted by the secretary, however, no report shall be furnished later than 10 days after the test or inspection of such device has occurred.

(c) Subject to the provisions of K.S.A. 83-215, and amendments thereto, the owner and operator of a dispensing device which is found to be inaccurate at the time of testing shall withdraw immediately the device from further use until the necessary corrections, adjustments or repairs are made and the device is determined to be accurate by a service company or the city or county weights and measures department or an authorized representative of the secretary. The devices which have been repaired or serviced shall meet the tolerances and specifications adopted by the secretary by rules and regulations. The service company or the city or county shall notify the secretary of any devices which are found not to comply with such tolerances and specifications and those which are not able to be serviced or repaired so as to comply with such tolerances and specifications. The service company shall report to the secretary within the time frames and in a manner established in rules and regulations adopted by the secretary of any dispensing device which has been installed, repaired, calibrated or fails to comply with the required tolerances and specifications.

(d) Each service company shall be required to keep at such company's corporate headquarters or at such company's resident agent's office a copy of all reports regarding the installation, repair, calibration and other work the service company or the technical representatives employed by the service company performed on the commercial dispensing devices. Such reports shall be legible and maintained in an accessible manner and for a period of time as established by the secretary pursuant to rules and regulations. The owner or operator of a dispensing device shall also be required to retain copies of all reports regarding installation, repair or adjustment or any of the aforementioned done to the dispensing device at the site where the dispensing device is used. Such reports shall be legible and maintained in an accessible manner and for a period of time as established by the secretary pursuant to rules and regulations.";

And by renumbering sections accordingly;

Also on page 2, in line 10, by striking "is" and inserting ", 83-145, 83-202, 83-219 and 83-404 and K.S.A. 2000 Supp. 83-304 are";

On page 1, in the title, in line 13, after the semicolon, by inserting "weights and measures, unlawful acts, annual testing requirements and recognized systems;"; also in line 13, after "2-2126" by inserting ", 83-145, 83-202, 83-219 and 83-404 and K.S.A. 2000 Supp. 83-304"; in line 14, by striking "section" and inserting "sections";

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

DEREK SCHMIDT
TIM HUELSKAMP
CHRISTINE DOWNEY
Conferees on part of Senate

DAN JOHNSON
DONALD L. DAHL
DANIEL J. THIMESCH
Conferees on part of House

Senator Schmidt moved the Senate adopt the Conference Committee Report on **HB 2101**.

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

Yeas: Adkins, Barone, Brownlee, Brungardt, Clark, Corbin, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Allen, Barnett, Donovan, Taddiken.

The Conference Committee report was adopted.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Thursday, May 3, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

