

# Journal of the Senate

SEVENTY-FIRST DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Sunday, May 6, 2001—3:00 p.m.

The Senate was called to order by President Dave Kerr.  
The roll was called with thirty-eight senators present.  
Senators Downey and Lyon were excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

As I listened to members of our Senate family yesterday, the recurring theme of the conversation was, "I'm ready to go home." I was listening to people who had made appointments based on a ninety day session. Men and women whose jobs needed their presence. Parents and grandparents whose children and grandchildren were expecting to see them at an event important in their young lives. Spouses who had expected to give some relief a week ago to family members. People whose constituents had situations which could use some personal attention.

But, perhaps, one of the main reasons for the impatience is that there are so many who are not involved in the actual negotiations, who are just waiting, waiting, waiting.

I don't intend to minimize the frustration people are experiencing, but sometimes it helps to put things in perspective.

There are people in Hoisington who still have no home to go to.

There are people in Kansas who have no one at home to go to.

There are people in every community who stay away from home in order to avoid the conflict which awaits them there.

Having said that, O God, if it be Your will, may what needs to be done to finish our work, be done soon.

I thank You in the Name of Christ.

AMEN

## MESSAGE FROM THE HOUSE

Announcing the House reconsidered its action in the adoption of the conference committee report of **SB 321** and requests return of the bill.

The House nonconcurrs in Senate amendments to **HB 2590**, requests a conference and has appointed Representatives Wilk, Neufeld and Nichols as conferees on the part of the House.

The House announces the appointment of Representative Nichols to replace Representative Feuerborn as a conferee on **SB 321**.

The House not adopts the conference committee report on **Senate Substitute for HB 2034**, requests a conference and appoints Representatives Holmes, Sloan and McClure as second conferees on the part of the House.

The House adopts the conference committee report on **SB 67**.

The House adopts the conference committee report on **HB 2176**.

**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 bills: **SB 67; S Sub for HB 2067; HB 2175.**

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 67**, submits the following report:

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

On page 6, by deleting all in lines 26 through 43;

On page 7, by deleting all in lines 1 through 17;

And by renumbering sections accordingly;

On page 8, in line 3, by striking "The" and inserting "Except for a hearing conducted by telephone or video conference call, the"; in line 4, by striking "At the"; in line 5, by striking "discretion of the division" and inserting "If the licensee requests"; in line 29, by striking "and" and inserting a comma; in line 30, after "form" by inserting "and to one other witness who was present at the time of the issuance of the certification and called by the licensee";

On page 10, after line 42, by inserting the following:

"(4) the testimony of any witness present at the time of the issuance of the certification and called by the licensee;"

Also on page 10, in line 43, by striking "(4)" and inserting "(5)";

On page 11, in line 1, by striking "(5)" and inserting "(6)"; in line 4, by striking "(6)" and inserting "(7)";

On page 12, in line 14, by striking "To be raised"; by striking all in lines 15 through 22;

On page 13, in line 4, after "mailing" by inserting ", except that this provision shall not apply to any licensee where such application would result in a manifest injustice"; by striking all in lines 13 through 43;

By striking all on pages 14 through 18;

By striking all on pages 27 through 31 and inserting the following:

"Sec. 2. K.S.A. 2000 Supp. 8-255 as amended by section 32 of 2001 Senate Bill No. 15 is hereby amended to read as follows: 8-255. (a) The division is authorized to *restrict*, suspend or revoke a person's driving privileges upon a showing by its records or other sufficient evidence the person:

(1) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(2) has been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period;

(3) is incompetent to drive a motor vehicle;

(4) has been convicted of a moving traffic violation, committed at a time when the person's driving privileges were *restricted*, suspended or revoked; or

(5) is a member of the armed forces of the United States stationed at a military installation located in the state of Kansas, and the authorities of the military establishment certify that such person's on-base driving privileges have been suspended, by action of the proper military authorities, for violating the rules and regulations of the military installation governing the movement of vehicular traffic or for any other reason relating to the person's inability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(b) The division shall suspend a person's driving privileges when required by K.S.A. 8-262 ~~or~~, 8-1014 *or* 41-727, and amendments thereto, and K.S.A. 2000 Supp. 21-3765, and amendments thereto, and shall disqualify a person's privilege to drive commercial motor vehicles when required by K.S.A. 8-2,142, and amendments thereto.

(c) When the action by the division *restricting*, suspending, revoking or disqualifying a person's driving privileges is based upon a report of a conviction or convictions from a convicting court, the person may not request a hearing but, within 30 days after notice of

*restriction*, suspension, revocation or disqualification is mailed, may submit a written request for administrative review and provide evidence to the division to show the person whose driving privileges have been *restricted*, suspended, revoked or disqualified by the division was not convicted of the offense upon which the *restriction*, suspension, revocation or disqualification is based. Within 30 days of its receipt of the request for administrative review, the division shall notify the person whether the *restriction*, suspension, revocation or disqualification has been affirmed or set aside. The request for administrative review shall not stay any action taken by the division.

(d) Upon *restricting*, suspending, revoking or disqualifying the driving privileges of any person as authorized by this act, the division shall immediately notify the person in writing. Except as provided by K.S.A. 8-1002 and 8-2,145, and amendments thereto, and subsection (c) of this section, if the person makes a written request for hearing within 30 days after such notice of *restriction*, suspension or revocation is mailed, the division shall afford the person an opportunity for a hearing as early as practical not sooner than five days nor more than 30 days after such request is mailed. If the division has not revoked or suspended the person's driving privileges or vehicle registration prior to the hearing, the hearing may be held within not to exceed 45 days. Except as provided by K.S.A. 8-1002 and 8-2,145, and amendments thereto, the hearing shall be held in the person's county of residence or a county adjacent thereto, unless the division and the person agree that the hearing may be held in some other county. Upon the hearing, the director or the director's duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require an examination or reexamination of the person. When the action proposed or taken by the division is authorized but not required, the division, upon the hearing, shall either rescind or affirm its order of *restriction*, suspension or revocation or, good cause appearing therefor, extend the *restriction* or suspension of the person's driving privileges, modify the terms of the *restriction* or suspension or revoke the person's driving privileges. When the action proposed or taken by the division is required, the division, upon the hearing, shall either affirm its order of *restriction*, suspension, revocation or disqualification, or, good cause appearing therefor, dismiss the administrative action. If the person fails to request a hearing within the time prescribed or if, after a hearing, the order of *restriction*, suspension, revocation or disqualification is upheld, the person shall surrender to the division, upon proper demand, any driver's license in the person's possession.

(e) In case of failure on the part of any person to comply with any subpoena issued in behalf of the division or the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of the division, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the director or the director's duly authorized agent by order or subpoena, other than an officer or employee of the state or of a political subdivision of the state, shall receive for the witness' attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness.

(f) The division, in the interest of traffic and safety, may establish driver improvement clinics throughout the state and, upon reviewing the driving record of a person whose driving privileges are subject to suspension under subsection (a)(2), may permit the person to retain such person's driving privileges by attending a driver improvement clinic. A person who is required to attend a driver improvement clinic shall pay a fee of \$15. Amounts received under this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the division of vehicles operating fund.

Sec. 3. K.S.A. 2000 Supp. 8-262 as amended by section 4 of 2001 Senate Bill No. 56 is hereby amended to read as follows: 8-262. (a) (1) Any person who drives a motor vehicle on any highway of this state at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to section 1 of 2001 Senate Bill No. 56, and amendments

thereto, shall be guilty of a: (A) Class B nonperson misdemeanor on the first conviction; and (B) class A nonperson misdemeanor on the second conviction or subsequent conviction.

(2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.

(3) Except as otherwise provided by subsection (a)(4), every person convicted under this section shall be sentenced to at least five days' imprisonment and fined at least \$100 and upon a second or subsequent conviction shall not be eligible for parole until completion of five days' imprisonment.

(4) If a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-1567, and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance or law prohibits the acts prohibited by that statute; and (B) is or has been also convicted of a violation of K.S.A. 8-1567, and amendments thereto, or of a municipal ordinance or law of another state, which ordinance or law prohibits the acts prohibited by that statute, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

(b) The division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section, upon a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days.

~~(c) In addition to extension of the period of suspension or revocation under subsection (b), if the conviction is for a violation committed after June 30, 1994, and before July 1, 1996, and committed while the person's driving privileges are suspended pursuant to K.S.A. 8-1014, and amendments thereto, the division, upon completion of the extended period of suspension, shall restrict the person's driving privileges for an additional 120 days to driving only a motor vehicle equipped with an ignition interlock device, as defined by K.S.A. 8-1013, and amendments thereto, approved by the division and obtained, installed and maintained at the person's expense.~~

~~(d) For the purposes of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section.~~

Sec. 4. K.S.A. 2000 Supp. 8-1008 as amended by section 35 of 2001 Senate Bill No. 15 is hereby amended to read as follows: 8-1008. (a) Community-based alcohol and drug safety action programs certified in accordance with subsection (b) shall provide:

(1) Presentence alcohol and drug evaluations of any person who is convicted of a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute;

(2) supervision and monitoring of all persons who are convicted of a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, and whose sentences or terms of probation require completion of an alcohol and drug safety action program, as provided in this section, or an alcohol and drug abuse treatment program, as provided in this section;

(3) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute;

(4) supervision and monitoring of persons required, under a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, to complete an alcohol and drug safety action program, as provided

in this section, or an alcohol and drug abuse treatment program, as provided in this section; or

(5) any combination of (1), (2), (3) and (4).

(b) The presentence alcohol and drug evaluation shall be conducted by a community-based alcohol and drug safety action program certified in accordance with the provisions of this subsection to provide evaluation and supervision services as described in subsections (c) and (d). A community-based alcohol and drug safety action program shall be certified either by the chief judge of the judicial district to be served by the program or by the secretary of social and rehabilitation services for judicial districts in which the chief judge declines to certify a program. In addition to any qualifications established by the secretary, the chief judge may establish qualifications for the certification of programs, which qualifications may include requirements for training, education and certification of personnel; supervision and monitoring of clients; fee reimbursement procedures; handling of conflicts of interest; delivery of services to clients unable to pay; and other matters relating to quality and delivery of services by the program. In establishing the qualifications for programs, the chief judge or the secretary shall give preference to those programs which have had practical experience prior to July 1, 1982, in diagnosis and referral in alcohol and drug abuse. Certification of a program by the chief judge shall be done with consultation and approval of a majority of the judges of the district court of the district and municipal judges of cities lying in whole or in part within the district. If within 60 days after the effective date of this act the chief judge declines to certify any program for the judicial district, the judge shall notify the secretary of social and rehabilitation services, and the secretary of social and rehabilitation services shall certify a community-based alcohol and drug safety action program for that judicial district. The certification shall be for a four-year period. Recertification of a program or certification of a different program shall be by the chief judge, with consultation and approval of a majority of the judges of the district court of the district and municipal judges of cities lying in whole or in part within the district. If upon expiration of certification of a program there will be no certified program for the district and the chief judge declines to recertify or certify any program in the district, the judge shall notify the secretary of social and rehabilitation services, at least six months prior to the expiration of certification, that the judge declines to recertify or certify a program under this subsection. Upon receipt of the notice and prior to the expiration of certification, the secretary shall recertify or certify a community-based alcohol and drug safety action program for the judicial district for the next four-year period. To be eligible for certification under this subsection, the chief judge or the secretary of social and rehabilitation services shall determine that a community-based alcohol and drug safety action program meets the qualifications established by the judge or secretary and is capable of providing, within the judicial district: (1) The evaluations, supervision and monitoring required under subsection (a); (2) the alcohol and drug evaluation report required under subsection (c) or (d); (3) the follow-up duties specified under subsection (c) or (d) for persons who prepare the alcohol and drug evaluation report; and (4) any other functions and duties specified by law. Community-based alcohol and drug safety action programs performing services in any judicial district under this section prior to the effective date of this act may continue to perform those services until a community-based alcohol and drug safety action program is certified for that judicial district.

(c) A presentence alcohol and drug evaluation shall be conducted on any person who is convicted of a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute. The presentence alcohol and drug evaluation report shall be made available to and shall be considered by the court prior to sentencing. The presentence alcohol and drug evaluation report shall contain a history of the defendant's prior traffic record, characteristics and alcohol or drug problems, or both, and a recommendation concerning the amenability of the defendant to education and rehabilitation. The presentence alcohol and drug evaluation report shall include a recommendation concerning the alcohol and drug driving safety education and treatment for the defendant. The presentence alcohol and drug evaluation report shall be prepared by a program which has demonstrated practical experience in the diagnosis of alcohol and drug abuse. The duties of persons who prepare the presentence alcohol and drug evaluation report may also include appearing at sentencing and probation hearings in accordance with

the orders of the court, monitoring defendants in the treatment programs, notifying the probation department and the court of any defendant failing to meet the conditions of probation or referrals to treatment, appearing at revocation hearings as may be required and providing assistance and data reporting and program evaluation. The cost of any alcohol and drug education, rehabilitation and treatment programs for any person shall be paid by such person, and such costs shall include, but not be limited to, the assessments required by subsection (e). If financial obligations are not met or cannot be met, the sentencing court shall be notified for the purpose of collection or review and further action on the defendant's sentence.

(d) An alcohol and drug evaluation shall be conducted on any person whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute. The alcohol and drug evaluation report shall be made available to the prosecuting attorney and shall be considered by the prosecuting attorney. The alcohol and drug evaluation report shall contain a history of the person's prior traffic record, characteristics and alcohol or drug problems, or both, and a recommendation concerning the amenability of the person to education and rehabilitation. The alcohol and drug evaluation report shall include a recommendation concerning the alcohol and drug driving safety education and treatment for the person. The alcohol and drug evaluation report shall be prepared by a program which has demonstrated practical experience in the diagnosis of alcohol and drug abuse. The duties of persons who prepare the alcohol and drug evaluation report may also include monitoring persons in the treatment programs, notifying the prosecutor and the court of any person failing to meet the conditions of diversion or referrals to treatment, and providing assistance and data reporting and program evaluation. The cost of any alcohol and drug education, rehabilitation and treatment programs for any person shall be paid by such person, and such costs shall include, but not be limited to, the assessments required by subsection (e).

(e) In addition to any fines, fees, penalties or costs levied against a person who is convicted of a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, or who enters a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of that statute or such an ordinance, ~~the~~ \$150 shall be assessed against the person by the sentencing court or under the diversion agreement. The ~~the~~ \$150 assessment may be waived by the court, *in whole or in part*, or, in the case of diversion of criminal proceedings, by the prosecuting attorney, if the court or prosecuting attorney finds that the defendant is an indigent person. Except as otherwise provided in this subsection, the clerk of the court shall deposit all assessments received under this section in the alcohol and drug safety action fund of the court, which fund shall be subject to the administration of the judge having administrative authority over that court. If the secretary of social and rehabilitation services certifies the community-based alcohol and drug safety action program for the judicial district in which the court is located, the clerk of the court shall remit, during the four-year period for which the program is certified, 15% of all assessments received under this section to the secretary of social and rehabilitation services. Moneys credited to the alcohol and drug safety action fund shall be expended by the court, pursuant to vouchers signed by the judge having administrative authority over that court, only for costs of the services specified by subsection (a) or otherwise required or authorized by law and provided by community-based alcohol and drug safety action programs, except that not more than 10% of the money credited to the fund may be expended to cover the expenses of the court involved in administering the provisions of this section. In the provision of these services the court shall contract as may be necessary to carry out the provisions of this section. The district or municipal judge having administrative authority over that court shall compile a report and send such report to the office of the state judicial administrator on or before January 20 of each year, beginning January 20, 1991. Such report shall include, but not be limited to:

(1) The balance of the alcohol and drug safety action fund of the court on December 31 of each year;

(2) the assessments deposited into the fund during the 12-month period ending the preceding December 31; and

(3) the dollar amounts expended from the fund during the 12-month period ending the preceding December 31.

The office of the state judicial administrator shall compile such reports into a statewide report and submit such statewide report to the legislature on or before March 1 of each year.

(f) The secretary of social and rehabilitation services shall remit all moneys received by the secretary under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the certification of community-based alcohol and drug safety action programs fee fund, which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants issued pursuant to vouchers approved by the secretary of social and rehabilitation services or a person designated by the secretary.”;

And by renumbering sections accordingly;

On page 33, in line 28, by striking “2” and inserting “1”; in line 35, by striking “for a charge of \$20”;

On page 34, in line 3, by striking “On and after July 1, 2001,”; in line 35, by striking “On and after July 1, 2001,”;

On page 35, in line 40, by striking “On and after July 1, 2001,”;

On page 38, in line 19, by striking “, the” and inserting “: (1) The”; in line 21, by striking “(1)” and inserting “(A)”; in line 22, by striking “(2)” and inserting “(B)”; in line 24, by striking the period and inserting “; and”; in line 25, by striking “In addition, the court may” and inserting “(2) the court shall”; in line 26, by striking “up to”; also in line 26, after the period, by inserting “The court shall order that for any offender who has not been issued a driver’s license by the division prior to sentencing of the offender for a violation of this section, the division shall not issue such offender a driver’s license for 30 days.”; by striking all in lines 37 through 43;

By striking all on page 39;

On page 40, by striking all in lines 1 through 9 and inserting the following:

“Sec. 10. K.S.A. 2000 Supp. 8-241 as amended by section 31 of 2001 Senate Bill No. 15 is hereby amended to read as follows: 8-241. (a) Except as provided in K.S.A. 8-2,125 through 8-2,142, and amendments thereto, any person licensed to operate a motor vehicle in this state shall submit to an examination whenever: (1) The division of vehicles has good cause to believe that such person is incompetent or otherwise not qualified to be licensed; or (2) the division of vehicles has suspended such person’s license pursuant to K.S.A. 8-1014, and amendments thereto, as the result of a test refusal, test failure or conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, except that no person shall have to submit to and successfully complete an examination more than once as the result of separate suspensions arising out of the same occurrence.

(b) When a person is required to submit to an examination pursuant to subsection (a)(1), the fee for such examination shall be in the amount provided by K.S.A. 8-240, and amendments thereto. When a person is required to submit to an examination pursuant to subsection (a)(2), the fee for such examination shall be ~~\$5~~ \$25. In addition, any person required to submit to an examination pursuant to subsection (a)(2): (1) *As the result of a test failure, a conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto,* shall be required, at the time of examination, to pay a reinstatement fee of ~~\$50~~ \$100 after the first occurrence, \$200 after the second occurrence, \$300 after the third occurrence and \$400 after the fourth occurrence; and (2) *as a result of a test refusal shall be required, at the time of examination, to pay a reinstatement fee of \$400 after the first occurrence, \$600 after the second occurrence, \$800 after the third occurrence and \$1,000 after the fourth occurrence. No reinstatement shall be allowed after the fifth or subsequent occurrence under either subsection (b)(1) or (b)(2).* All examination fees collected pursuant to this section shall be *remitted to the state treasurer, in accordance with*

*the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 80% to the state highway fund and 20% shall be disposed of as provided in K.S.A. 8-267, and amendments thereto. All reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 50% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 20% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, 20% to the forensic laboratory and materials fee fund cited in K.S.A. 28-176, and amendments thereto, and 10% to the driving under the influence equipment fund created by K.S.A. 75-5660, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.*

(c) When an examination is required pursuant to subsection (a), at least five days' written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by subsection (e) of K.S.A. 8-247, and amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a license subject to restrictions as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as required by this section shall be grounds for suspension or revocation of the license.”;

And by renumbering sections accordingly;

On page 42, in line 32, by striking “5” and inserting “1”;

On page 44, in line 37, by striking all after “(D)”;

by striking all in lines 38 and 39; in line 40, by striking “(E)”;

On page 45, in line 3, by striking “(F)” and inserting “(E)”;

in line 14, by striking “(G)” and inserting “(F)”;

in line 18, by striking “(H)” and inserting “(G)”;

in line 22, by striking “(I)” and inserting “(H)”;

in line 26, by striking “(J)” and inserting “(I)”;

On page 53, in line 24, by striking “10” and inserting “five”;

in line 26, by striking “After 10”;

by striking all in lines 27 through 31; in line 32, by striking “sentence.”

and by inserting “The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment,

provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.”;

in line 34, by striking “an impatient or outpatient” and inserting “a”;

in line 36, by striking all after the period; by striking all in lines 37 and 38; in line 41, by striking “120” and inserting “90”;

On page 54, in line 3, by striking “120” and inserting “90”;

by striking all in lines 4 through 10; in line 11, by striking all before “enter” and inserting “The court may also require as a condition of parole that such person”;

also in line 11, by striking “an impatient”;

in line 12, by striking “or outpatient” and inserting “a”;

by striking all in lines 18 and 19 and inserting “The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment,

provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.”;

in line 26, by striking “15 months” and inserting “not less than 90 days nor more than one year's”;

also in line 26, by striking “The”;

by striking all in lines 27 through 33 and inserting “The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 72 consecutive hours' imprisonment,



provided such work release program requires such person to return to confinement at the end of each day in the work release program. After the term of imprisonment imposed by the court, the person shall be placed in the custody of the secretary of corrections and shall be required to participate in an inpatient or outpatient program for alcohol and drug abuse as determined by the secretary. Upon completion of the term of imprisonment and the required treatment program for alcohol and drug abuse, the person shall be released to a mandatory one-year period of postrelease supervision, which such period of postrelease supervision shall not be reduced. During such postrelease supervision, the person shall be required to participate in an approved aftercare plan as determined by the Kansas parole board as a condition of release. Any violation of the conditions of such postrelease supervision may subject such person to revocation of postrelease supervision pursuant to K.S.A. 75-5217 *et seq.*, and amendments thereto and as otherwise provided by law.”; in line 41, by striking “the person shall not be eligible for” and inserting “the judge may order the person on”;

On page 57, after line 14, by inserting the following:

“(s) The amount of the increase in fines as specified in this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of remittance of the increase provided in this act, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit 50% to the community alcoholism and intoxication programs fund and 50% to the department of corrections alcohol and drug abuse treatment fund, which is hereby created in the state treasury.”;

Also on page 57, by striking all in lines 15 through 18:

By striking all on pages 58 through 60;

On page 61, by striking all in lines 1 through 40;

And by renumbering sections accordingly;

On page 67, in line 20, after “family” by inserting “including in person comments, contemporaneous comments and prerecorded comments made by any technological means”;

On page 71, by striking all in lines 34 through 39 and inserting the following:

“Sec. 17. K.S.A. 2000 Supp. 21-4711 is hereby amended to read as follows: 21-4711. In addition to the provisions of K.S.A. 21-4710 and amendments thereto, the following shall apply in determining an offender’s criminal history classification as contained in the presumptive sentencing guidelines grid for nondrug crimes and the presumptive sentencing guidelines grid for drug crimes:

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender’s criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined in K.S.A. 21-3408 and amendments thereto occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes.

(b) A conviction of subsection (a)(1) of K.S.A. 21-4204 and amendments thereto, criminal possession of firearms by a person who is both addicted to and an unlawful user of a controlled substance, subsection (a)(4) of K.S.A. 21-4204 and amendments thereto, possession of a firearm on school grounds or K.S.A. 21-4218 and amendments thereto, possession of a firearm on the grounds or in the state capitol building, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for subsection (b) of K.S.A. 21-3404, involuntary manslaughter in the commission of K.S.A. 8-1567 and amendments thereto driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567 and amendments thereto shall count as one person felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for involuntary manslaughter while driving under the influence of alcohol and drugs, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A)

An act described in K.S.A. 8-1567 and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the act described in K.S.A. 8-1567 and amendments thereto shall count as one person felony for criminal history purposes.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as described in subsection (a) of K.S.A. 21-3715 and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as described in subsection (b) or (c) of K.S.A. 21-3715 and amendments thereto.

The facts required to classify prior burglary adult convictions and juvenile adjudications must be established by the state by a preponderance of the evidence.

(e) Out-of-state convictions and juvenile adjudications will be used in classifying the offender's criminal history. An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction. If a crime is a felony in another state, it will be counted as a felony in Kansas. The state of Kansas shall classify the crime as person or nonperson. In designating a crime as person or nonperson comparable offenses shall be referred to. If the state of Kansas does not have a comparable offense, the out-of-state conviction shall be classified as a nonperson crime. Convictions or adjudications occurring within the federal system, other state systems, the District of Columbia, foreign, tribal or military courts are considered out-of-state convictions or adjudications. The facts required to classify out-of-state adult convictions and juvenile adjudications must be established by the state by a preponderance of the evidence.

(f) Except as provided in subsections (4), (5) and (6) of K.S.A. 21-4710 and amendments thereto, juvenile adjudications will be applied in the same manner as adult convictions. Out-of-state juvenile adjudications will be treated as juvenile adjudications in Kansas.

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, to commit a crime shall be treated as a person or nonperson crime in accordance with the designation assigned to the underlying crime.

(h) Drug crimes are designated as nonperson crimes for criminal history scoring.

Sec. 18. K.S.A. 2000 Supp. 74-7336 is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit ~~22%~~ 19.81% to the crime victims compensation fund and ~~4%~~ 3.6% to the crime victims assistance fund, 4.98% to the community alcoholism and intoxication programs fund and 4.98% to the department of corrections alcohol and drug abuse treatment fund. The remainder of the remittances shall be credited to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.

Sec. 19. K.S.A. 8-2,145 and 41-727 and K.S.A. 2000 Supp. 8-241, as amended by section 31 of 2001 Senate Bill No. 15, 8-255, as amended by section 32 of 2001 Senate Bill No. 15, 8-262, as amended by section 4 of 2001 Senate Bill No. 56, 8-1001, 8-1002, 8-1008, as amended by section 35 of 2001 Senate Bill No. 15, 8-1014, 8-1015, 8-1016, 8-1567, 8-1567a, 21-4711, 22-3717, 22-3717b, 65-1,107 and 74-7336 are hereby repealed.”;

And by renumbering section 24 as section 20;

Also on page 71, in line 41, by striking “Kansas register” and inserting “statute book”;

On page 1, in the title, in line 14, after “ACT” by inserting “concerning motor vehicles;”; also in line 14, after “driving” by inserting “under the influence of alcohol or drugs, penalties”; in line 18, by striking “concerning”; in line 19, after the semicolon, by inserting “certain fees and fines;”; also in line 19, by striking all after “K.S.A.”; by striking all in lines 20 through 23 and by inserting the following: “8-2,145 and 41-727 and K.S.A. 2000 Supp. 8-241, as amended by section 31 of 2001 Senate Bill No. 15, 8-255, as amended by section 32 of 2001 Senate Bill No. 15, 8-262, as amended by section 4 of 2001 Senate Bill No. 56, 8-1001, 8-1002, 8-1008, as amended by section 35 of 2001 Senate Bill No. 15, 8-1014, 8-

1015, 8-1016, 8-1567, 8-1567a, 21-4711, 22-3717, 65-1,107 and 74-7336 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 22-3717b.”;

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

MICHAEL O'NEAL  
WARD LOYD  
JANICE L. PAULS  
*Conferees on part of House*

JOHN VRATIL  
DEREK SCHMIDT  
GRETA GOODWIN  
*Conferees on part of Senate*

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 67**.

On roll call, the vote was: Yeas 35, Nays 2, Present and Passing 1, Absent or Not Voting 2.

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

Nays: Jackson, Tyson.

Present and Passing: Harrington.

Absent or Not Voting: Downey, Lyon.

The Conference Committee report was adopted.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **SB 67**. This comprehensive legislation significantly enhances public safety by imposing harsher penalties on drunk drivers. Many Kansans' lives have been tragically affected by the act of a drunk driver. My vote in favor of this legislation is offered in tribute to the innocent victims of this crime and their families—lives torn apart by the dangerous and senseless act of driving under the influence of alcohol or drugs. This bill says loud and clear that those who drink and drive in our state will face strong penalties. Those who commit this crime more than once will also be dealt with as the serious criminals they are. I commend those who advocate for the passage of laws such as this. Their voice has been heard. But, this bill speaks for those who can't, those whose lives were ended as a consequence of drunk driving. We remember them with the enactment of this important legislation.—DAVID ADKINS

MR. PRESIDENT: This bill earned my negative vote because I oppose the provision which causes the accused to present the Burden of Proof of innocence rather than the State proving the guilt of the accused. In addition, this bill was an accumulation of five bills, one of which had not been discussed previously on the Senate Floor which amounts to rule by Conference Committee.—DAVID D. JACKSON

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2067**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

SUSAN WAGLE  
JIM BARNETT  
*Conferees on part of Senate*

GARRY BOSTON  
BOB BOTHELL  
*Conferees on part of House*

On motion of Senator Wagle, the Senate adopted the conference committee report on **S Sub for HB 2067**, and requested a new conference committee be appointed.

The Vice-President appointed Senators Wagle, Barnett and Steineger as a second Conference Committee on the part of the Senate on **S Sub for HB 2067**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2175**, 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 3, following line 12, by inserting the following:

“New Section 1. Garnishment is a procedure whereby the wages, money or intangible property of a person can be seized or attached pursuant to an order of garnishment issued by the court under the conditions set forth in the order.

New Sec. 2. An order of garnishment before judgment may be obtained only upon order of a judge of the district court pursuant to the procedure to obtain an order of attachment. No order of garnishment may be obtained before judgment where the property sought to be attached is wages earned by the person being garnished.

New Sec. 3. (a) As an aid to the collection of a judgment, an order of garnishment may be obtained at any time after 10 days following judgment. There is no requirement that an execution first be issued and returned unsatisfied.

(b) The party requesting a garnishment shall file a request in an individual case or by a master request covering more than one case asking the court to issue an order of garnishment. The request shall designate whether the order of garnishment is to be issued to attach earnings or to attach other property of the judgment debtor. If such party seeks to attach earnings of the judgment debtor to enforce:

(1) An order of any court for the support of any person;

(2) an order of any court of bankruptcy under chapter 13 of the United States bankruptcy code; or

(3) a debt due for any state or federal tax, the direction of the party shall so indicate.

No bond is required for an order of garnishment issued after judgment.

New Sec. 4. This section shall apply if the garnishment is to attach intangible property other than earnings of the judgment debtor.

(a) The order of garnishment shall be substantially in compliance with the forms set forth pursuant to rules or orders of the supreme court.

(b) The order of garnishment and the appropriate form for the garnishee's answer shall be served on the garnishee in the same manner as process is to be served pursuant to K.S.A. 60-301 through 60-313, and amendments thereto, except that the garnishee may be served by any means provided under K.S.A. 60-301 through 60-313, and amendments thereto, at the garnishee's business or office location and this shall be considered proper service. A copy of the answer form shall be served if the garnishment order is not served electronically. If the order is served prior to a judgment, the order shall also be served on the judgment debtor, if the judgment debtor can be found, except that the order shall not be served on the judgment debtor until after service has been made on the garnishee. Failure to serve the judgment debtor shall not relieve the garnishee from liability under the order.

(c) The order of garnishment shall have the effect of attaching:

(1) All intangible property, funds, credits or other indebtedness belonging to or owing the judgment debtor, other than earnings, which is in the possession or under the control of the garnishee, and all such credits and indebtedness due from the garnishee to the judgment debtor at the time of service of the order; and

(2) all such personal property coming into the possession or control of the garnishee and belonging to the judgment debtor, and all such credits and indebtedness becoming due to the judgment debtor between the time the order is served on the garnishee and the time the garnishee makes the answer of the garnishee. Where the garnishee is an executor or administrator of an estate in which the judgment debtor is or may become a legatee or distributee thereof, the order of garnishment shall have the effect of attaching and creating

a first and prior lien upon any property or funds of such estate to which the judgment debtor is entitled upon distribution of the estate, and such garnishee shall be prohibited from paying over to the judgment debtor any of such property or funds until so ordered by the court from which the order of garnishment was issued.

(d) The garnishee, without prior agreement, may withhold and retain to defray the garnishee's costs, an administrative fee of \$10 for each order of garnishment that attaches funds, credits or indebtedness. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment, except that if the amount required to be withheld under the order for garnishment is greater than the amount of the funds, credits or indebtedness held by the garnishee, the fee shall be deducted from the amount withheld.

New Sec. 5. (a) The written direction of a party seeking an order of garnishment attaching funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company shall state the amount to be withheld, which shall be 110% of the amount of the judgment creditor's claim, in the case of prejudgment garnishment, or 110% of the amount of the current balance due under the judgment, in the case of postjudgment garnishment. The garnishee, without prior agreement, may withhold and retain to defray the garnishee's costs, an administrative fee of \$10 for each order of garnishment that attaches funds, credits or indebtedness. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment, except that if the amount required to be withheld under the order for garnishment is greater than the amount of the funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company, the fee shall be deducted from the amount withheld.

(b) All orders of garnishment issued in this state for the purpose of attaching funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company shall include the judgment debtor's address and tax identification number, if known, and shall specify the amount of funds, credits or indebtedness to be withheld by the garnishee, which shall be 110% of the amount of the judgment creditor's claim or 110% of the amount of the current balance due under the judgment, as stated in the written direction of the party seeking the order.

(c) The forms provided by law for an order of garnishment attaching funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company shall include the following statement:

"If you hold any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by you pursuant to this order of garnishment is not to exceed \$\_\_\_\_\_."

(amount stated in direction)

(d) (1) The forms provided by law for the answer to an order of garnishment attaching funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company shall include the following statement:

"The amount of the funds, credits or indebtedness belonging to or owing the judgment debtor which I shall hold shall not exceed \$\_\_\_\_\_."

(amount stated in order)

(2) The answer shall further include information that such account is owned in joint tenancy with one or more individuals who are not subject to the garnishment, if applicable.

(e) If an order of garnishment attaches funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company and the garnishee holds funds or credits or is indebted to the judgment debtor in two or more accounts, the garnishee may withhold payment of the amount attached from any one or more of such accounts.

(f) If an order of garnishment attaches funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company and the garnishee holds funds or credits or is indebted to the judgment debtor in an account which judgment debtor owns in joint tenancy with one or more individuals who are not subject to the garnishment, the garnishee shall withhold the entire amount sought by the garnishment. Neither the garnishor nor the garnishee shall be liable to the joint owners if the ownership of the funds is later proven not to be the judgment debtor's.

(g) No party shall seek an order of garnishment attaching funds, credits or indebtedness held by a bank, savings and loan association, savings bank, credit union or finance company except on good faith belief of the party seeking garnishment that the party to be served with the garnishment order has, or will have, assets of the judgment debtor. Except as provided further, not more than two garnishments shall be issued by a party seeking an order of garnishment applicable to the same claim or claims and against the same judgment debtor in any 30-day period. A judge may order an exception to this subsection in any case in which the party seeking the garnishment shall in person or by attorney: (1) Certify that the garnishment is not for the purpose of harassment of the debtor, and (2) state facts demonstrating to the satisfaction of the judge that there is reason to believe that the garnishee has property or credits of the debtor which are not exempt from execution.

New Sec. 6. This section shall apply if the garnishment is to attach earnings of the judgment debtor.

(a) The order of garnishment shall be substantially in compliance with the forms set forth pursuant to rules or orders of the supreme court.

(b) The order of garnishment and the appropriate form for the garnishee's answer shall be served on the garnishee in the same manner as process is to be served pursuant to K.S.A. 60-301 through 60-313, and amendments thereto, except that the garnishee may be served by any means provided under K.S.A. 60-301 through 60-313, and amendments thereto, at the garnishee's business or office location and this shall be considered proper service. A copy of the answer form shall be served if the garnishment order is not served electronically. If the party having requested the garnishment is notified by the garnishee that the judgment debtor has never been employed by the garnishee or the judgment debtor's employment has been terminated, the party seeking the garnishment shall forthwith file a release with the clerk of the court of such garnishment.

(c) The order of garnishment shall have the effect of attaching the nonexempt portion of the judgment debtor's earnings for all pay periods which end while the order is in effect. The order shall remain in effect until either of the following occur, whichever is sooner: (1) The judgment is paid; or (2) the garnishment is released. The party for whom the garnishment is issued shall file a release with the clerk of the court upon satisfaction of the judgment and provide a copy thereof to the defendant and garnishee. Nonexempt earnings are earnings which are not exempt from wage garnishment pursuant to K.S.A. 60-2310, and amendments thereto. Computation of the nonexempt portion of the judgment debtor's wages for the pay period or periods covered by the order shall be made in accordance with the directions accompanying the garnishee's answer form, and a written explanation of the garnishee's computations shall be furnished to the judgment debtor with each paycheck from which earnings are withheld pursuant to the order of garnishment. The order of garnishment shall also constitute an order of the court directing the garnishee to pay to the judgment creditor all earnings which are to be withheld by the garnishee under the order of garnishment as more particularly provided in the answer of the garnishee.

(d) From income due the judgment debtor, the garnishee may withhold and retain to defray the garnishee's costs, an administrative fee of \$10 for each pay period for which income is withheld, not to exceed \$20 for each 30 day period for which income is withheld, whichever is less. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment. If the addition of this fee causes the total amount withheld to exceed the restrictions imposed by subsection (b) of K.S.A. 60-2310, and amendments thereto, the fee shall be deducted from the amount withheld.

(e) For any continuing garnishment, the party having requested the garnishment shall maintain an accounting and record of the judgment reflecting thereon all garnishment proceeds received and applied, all interest accrued thereon, and any and all credits applied in satisfaction thereof, and the remaining unsatisfied balance of such judgment. The party requesting the garnishment shall produce a copy of such accounting and record upon request of the court.

New Sec. 7. (a) Immediately following the time the order of garnishment is served on the garnishee, the party seeking the garnishment shall send a notice to the judgment debtor in any reasonable manner, notifying the judgment debtor:

(1) That a garnishment order has been issued against the judgment debtor and the effect of such order;

(2) of the judgment debtor's right to assert any claim of exemption allowed under the law with respect to a garnishment against property other than earnings or of the judgment debtor's right to object to the calculation of exempt and nonexempt earnings with respect to a garnishment against the earnings of the debtor; and

(3) of the judgment debtor's right to a hearing on such claim or objection. The notice shall be substantially in compliance with the form set forth pursuant to rules or orders of the supreme court, and shall contain a description of the exemptions that are applicable to garnishments and the procedure by which the judgment debtor can assert any claim of exemption.

(b) If the judgment debtor requests a hearing to assert any claim of exemption, the request shall be filed no later than 10 days following the date the notice is served on the judgment debtor. If a hearing is requested, the hearing shall be held by the court no sooner than five days nor later than 10 days after the request is filed. At the time the request for hearing is filed, the judgment debtor shall obtain from the clerk or court the date and time for the hearing which shall be noted on the request form. Immediately after the request for hearing is filed, the judgment debtor shall hand-deliver to the party seeking the garnishment or such party's attorney, if the party is represented by an attorney, or mail to the party seeking the garnishment or such party's attorney, if the party is represented by an attorney, by first-class mail at the party seeking the garnishment or such party's attorney's last known address, a copy of the request for hearing.

(c) If a hearing is held, the judgment debtor shall have the burden of proof to show that some or all of the property subject to the garnishment is exempt, and the court shall enter an order determining the exemption and such other order or orders as is appropriate.

New Sec. 8. This section shall apply if the garnishment is to attach intangible property other than earnings of the judgment debtor.

(a) The answer of the garnishee shall be substantially in compliance with the forms set forth pursuant to rules or orders of the supreme court.

(b) Within 10 days after service upon a garnishee of an order of garnishment the garnishee shall complete the answer in accordance with the instructions accompanying the answer form stating the facts with respect to the demands of the order and file the completed answer with the clerk of the court. The clerk shall cause a copy of the answer to be mailed promptly to the judgment creditor and judgment debtor at the addresses listed on the answer form. The answer shall be supported by unsworn declaration in the manner set forth on the answer form.

New Sec. 9. This section shall apply if the garnishment is to attach earnings of the judgment debtor.

(a) The answer of the garnishee shall be substantially in compliance with the forms set forth pursuant to rules or orders of the supreme court.

(b) Within 15 days following the end of each month, the garnishee shall complete the answer in accordance with the instructions accompanying the answer form for all pay periods ending during the month and send the completed answer to each judgment creditor and judgment debtor at the addresses listed on the answer form. The garnishee shall designate on the answer in the space provided on the answer form the name and case number for each judgment creditor who has a garnishment order in effect for the same debtor at the end of each month and the amount that is due each judgment creditor under the garnishment in accordance with the instructions accompanying the answer form. Only one answer needs to be completed for each judgment debtor by the garnishee and the garnishee may duplicate the completed answer in any manner the garnishee desires for distribution to each judgment creditor and judgment debtor. The answer shall be supported by unsworn declaration in the manner set forth on the answer form.

(c) If there are other liens against the judgment debtor's earnings which by law have priority over garnishments, the garnishee shall so indicate on the answer. In such event, the garnishment shall remain in effect but no earnings of the debtor shall be withheld under the garnishment order unless and until all of the other liens having priority are released or

satisfied or the earnings being withheld under all of such liens are less than the amount which is exempt under K.S.A. 60-2310, and amendments thereto.

New Sec. 10. (a) No later than 10 days after the garnishee makes the answer and the clerk or the garnishee sends it to the judgment creditor and judgment debtor, the judgment creditor or judgment debtor, or both, may file a reply disputing any statement in the answer of the garnishee. A copy of the reply shall be sent by the party filing same to the other party, to any other judgment creditors affected and to the garnishee. The party filing the reply shall notify the court and schedule a hearing on the reply to be held within 30 days after filing of the reply.

(b) At the hearing, the court shall determine and rule on all issues related to the reply. The burden of proof shall be upon the party filing the reply to disprove the statements of the answer, except that the garnishee shall have the burden of proving offsets or indebtedness claimed to be due from the judgment debtor to the garnishee, or liens asserted by the garnishee against personal property of the judgment debtor. The provisions of K.S.A. 60-719, and amendments thereto, relating to offsets claimed by the garnishee shall be applicable to lawsuits filed pursuant to the code of civil procedure for limited actions.

New Sec. 11. If the garnishment is to attach property other than earnings of the judgment debtor, after 10 days following receipt of the answer of the garnishee by the court, and no reply to the answer has been filed, the court shall direct the garnishee to pay to the court such amount that the garnishee is holding as indicated by the answer, or such lesser amount if the circumstances warrant. If the garnishee is holding property other than money, the provisions of K.S.A. 60-701 *et seq.*, and amendments thereto, relating to attachment shall be applicable. If through garnishment, the claim is overpaid to the court, the court shall promptly refund to the judgment debtor any such overpayment.

New Sec. 12. This section shall apply if the garnishment is to attach earnings of the judgment debtor. If no reply is made to the answer of garnishee within 10 days following the date the garnishee has completed the answer, the garnishee shall promptly thereafter pay the earnings withheld as indicated on the answer to all judgment creditors designated on the answer in the amount due each as indicated on the answer, unless the garnishee receives prior to such payment an order of the court to the contrary. If any judgment creditor receives more than they are entitled to, that judgment creditor shall promptly pay the excess amount pro-rata to the other judgment creditors designated on the answer, or if no such other judgment creditors are designated, the judgment creditor shall promptly pay the excess amount to the judgment debtor.

New Sec. 13. If the garnishee fails to answer within the time and manner specified in the order of garnishment, the judgment creditor may file a motion and shall send a copy of the motion to the garnishee and the judgment debtor in the manner allowed under K.S.A. 60-205, and amendments thereto. At the hearing on the motion, the court may grant judgment against the garnishee for the amount of the judgment creditor's judgment or claim against the judgment debtor or for such other amount as the court deems reasonable and proper, and for the expenses and attorney fees of the judgment creditor. If the claim of the plaintiff has not been reduced to judgment, the liability of the garnishee shall be limited to the judgment ultimately rendered against the judgment debtor.

New Sec. 14. If after the time the garnishee is to make payment of funds or property held under a garnishment, the garnishee fails or refuses to pay or deliver property to the judgment creditor, the judgment creditor may file a motion and shall send a copy of the motion to the garnishee and the judgment debtor in the manner allowed under K.S.A. 60-205, and amendments thereto. At the hearing on the motion, the court may find the garnishee in contempt and punish the garnishee by a fine or may enter judgment against the garnishee for such amount as the court deems reasonable and proper, including the expenses and attorney fees of the judgment creditor.

New Sec. 15. The forms set forth pursuant to rules or orders of the supreme court are sufficient under this act and are intended to indicate the simplicity and brevity of statement which this act contemplates.

New Sec. 16. The provisions of sections 1 through 15, and amendments thereto, shall be part of and supplemental to the code of civil procedure.



Sec. 17. K.S.A. 2000 Supp. 60-205 is hereby amended to read as follows: 60-205. The method of service and filing of pleadings and other papers as provided in this section shall constitute sufficient service and filing in all civil actions and special proceedings but they shall be alternative to, and not in restriction of, different methods specifically provided by law.

(a) *When required.* Except as otherwise provided in this chapter, the following shall be served upon each of the parties: Every order required by its terms to be served; every pleading subsequent to the original petition, unless the court otherwise orders because of numerous defendants; every paper relating to disclosure of expert testimony or discovery required to be served upon a party, unless the court otherwise orders; every written motion other than one which may be heard *ex parte*; and every written notice, appearance, demand, offer of judgment, designation of record on appeal and similar paper. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in article 3 of chapter 60.

(b) *How made.* Whenever under this article service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney or upon a party shall be made by: (1) Delivering a copy to the attorney or a party; (2) mailing it to the attorney or a party at the last known address; (3) if no address is known, by leaving it with the clerk of the court; or (4) sending or transmitting to such attorney a copy by telefacsimile communication. For the purposes of this subsection, "Delivery of a copy" means: Handing it to the attorney or to the party; leaving it at the attorney's or party's office with the clerk or other person in charge thereof or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the attorney's or party's office is closed or the person to be served has no office, leaving it at the attorney's or party's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. Service by telefacsimile communication is complete upon receipt of a confirmation generated by the transmitting machine.

(c) *Numerous defendants.* In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that services of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) *Filing.* (1) Interrogatories, depositions other than those taken under K.S.A. 60-227 and amendments thereto, disclosures of expert testimony under K.S.A. 60-226 and amendments thereto and discovery requests or responses under K.S.A. 60-234 or 60-236, and amendments thereto, shall not be filed except on order of the court or until used in a trial or hearing, at which time the documents shall be filed.

(2) A party serving discovery requests or responses under K.S.A. 60-233, 60-234 or 60-236, and amendments thereto, or disclosures of expert testimony under K.S.A. 60-226 and amendments thereto, shall file with the court a certificate stating what document was served, when and upon whom.

(3) All other papers filed after the petition and required to be served upon a party, shall be filed with the court either before service or within a reasonable time thereafter.

(e) *Filing with the court defined.* The filing of pleadings and other papers with the court as required by this article shall be made by filing them with the clerk of the court. In accordance with K.S.A. 60-271 and amendments thereto and supreme court rules, pleadings and other papers may be filed by telefacsimile communication. The judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk.

Sec. 18. K.S.A. 60-465 is hereby amended to read as follows: 60-465. (a) A writing purporting to be a copy of an official record or of an entry therein, meets the requirements of authentication if the judge finds that the writing purports to be published by authority

of the nation, state or subdivision thereof, in which the record is kept or evidence has been introduced sufficient to warrant a finding that the writing is a correct copy of the record or entry. Extrinsic evidence of authenticity as a condition precedent to admissibility is not required if: (1) The office in which the record is kept is within this state and the writing is attested as a correct copy of the record or entry by a person purporting to be an officer, or a deputy of an officer, having the legal custody of the record; (2) the office in which the record is kept is within the United States or territory or insular possession subject to the dominion of the United States and the writing is attested to as required in clause (1) and authenticated by seal of the office having custody or, if that office has no seal, by a public officer having a seal and having official duties in the district or political subdivision in which the records are kept who certifies under seal that such officer has custody; or (3) the office in which the record is kept is in a foreign state or country, the writing is attested as required in clause (1) and is accompanied by a certificate that such officer has the custody of the record which certificate may be made by a secretary of an embassy or legation, consul general, consul, vice-consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of that office.

*(b) Any branch bank, branch credit union or branch savings and loan institution shall designate an officer or employee at such branch as the custodian of records to identify records for evidentiary purposes. For the purposes of this section, "branch" means any office, agency or other place of business, at which deposits are received, checks paid or money lent.*;

And by renumbering sections accordingly;

Also on page 3, by striking all in lines 35 through 43;

On page 4, by striking all in lines 1 through 43;

On page 5, by striking all in lines 1 through 20 and inserting the following:

"Sec. 20. K.S.A. 2000 Supp. 19-101a as amended by section 14 of 2001 Substitute for House Bill No. 2005 is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, 2003.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 2000 Supp. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, 2003.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 2000 Supp. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 17-5904, 17-5908, 47-1219 or 65-171d or K.S.A. 2000 Supp. 2-3318, 17-5909 or 65-1,178 through 65-1,199, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2000 Supp. 80-121, and amendments thereto.

(32) *Counties may not exempt from or effect changes in K.S.A. 19-228, as amended by 2001 House Bill No. 2068, and amendments thereto.*

(33) *Counties may not exempt from or effect changes in K.S.A. 60-1101, 60-1102, 60-1103 or 60-1103b, and amendments thereto.*

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 21. K.S.A. 60-1101 is hereby amended to read as follows: 60-1101. Any person furnishing labor, equipment, material, or supplies used or consumed for the improvement of real property, under a contract with the owner or with the trustee, agent or spouse of the owner, shall have a lien upon the property for the labor, equipment, material or supplies furnished, and for the cost of transporting the same *upon the filing of a notice of intent to perform as required pursuant to K.S.A. 60-1103b, and amendments thereto.* The lien shall be preferred to all other liens or encumbrances which are subsequent to the commencement of the furnishing of such labor, equipment, material or supplies at the site of the property subject to the lien. When two or more such contracts are entered into applicable to the same improvement, the liens of all claimants shall be similarly preferred to the date of the earliest unsatisfied lien of any of them.

Sec. 22. K.S.A. 60-1102 is hereby amended to read as follows: 60-1102. (a) *Filing. (1)* Any person claiming a lien on real property, under the provisions of K.S.A. 60-1101, and amendments thereto, shall file a *verified statement* with:

(A) *Except as provided in paragraph (B), the clerk of the district court of the county in which property is located, within four months after the date material, equipment or supplies, used or consumed was last furnished or last labor performed under the contract a;* or

(B) *the clerk of the district court of Johnson county for property located in Johnson county, within four months when such property is residential property, and within 180 days when such property is other than residential property, after the date material, equipment or supplies, used or consumed was last furnished or last labor performed under the contract.*

(2) *Such verified statement showing shall show:*

(+) (A) The name of the owner,

(+) (B) the name and address sufficient for service of process of the claimant,

(+) (C) a description of the real property,

(+) (D) a reasonably itemized statement and the amount of the claim, but if the amount of the claim is evidenced by a written instrument, or if a promissory note has been given for the same, a copy thereof may be attached to the claim in lieu of the itemized statement.

(b) *Recording.* Immediately upon the receipt of such statement the clerk of the court shall index the lien in the general index by party names and file number.

Sec. 23. K.S.A. 60-1103 as amended by section 7 of chapter 175 of the 2000 Session Laws of Kansas is hereby amended to read as follows: 60-1103. (a) *Procedure.* Any supplier, subcontractor or other person furnishing labor, equipment, material or supplies, used or consumed at the site of the property subject to the lien, under an agreement with the contractor, subcontractor or owner contractor may obtain a lien for the amount due in the same manner and to the same extent as the original contractor except that:

(1) The lien statement must state the name of the contractor and be filed within ~~three~~ **months**:

(A) *Except as provided in paragraph (B), three months after the date supplies, material or equipment was last furnished or labor performed by the claimant; or*

(B) for property located within Johnson county, three months when such property is residential property, and within 180 days when such property is other than residential property, after the date supplies, material or equipment was last furnished or labor performed by the claimant;

(2) if a warning statement is required to be given pursuant to K.S.A. 60-1103a, and amendments thereto, there shall be attached to the lien statement the affidavit of the supplier or subcontractor that such warning statement was properly given; and

(3) a notice of intent to perform, if required pursuant to K.S.A. 60-1103b, and amendments thereto, must have been filed as provided by that section.

(b) Owner contractor is defined as any person, firm or corporation who:

(1) Is the fee title owner of the real estate subject to the lien; and

(2) enters into contracts with more than one person, firm or corporation for labor, equipment, material or supplies used or consumed for the improvement of such real property.

(c) *Recording and notice.* When a lien is filed pursuant to this section, the clerk of the district court shall enter the filing in the general index. The claimant shall (1) cause a copy of the lien statement to be served personally upon any one owner, any holder of a recorded equitable interest and any party obligated to pay the lien in the manner provided by K.S.A. 60-304, and amendments thereto, for the service of summons within the state, or by K.S.A. 60-308, and amendments thereto, for service outside of the state, (2) mail a copy of the lien statement to any one owner of the property, any holder of a recorded equitable interest and to any party obligated to pay the same by restricted mail or (3) if the address of any one owner or such party is unknown and cannot be ascertained with reasonable diligence, post a copy of the lien statement in a conspicuous place on the premises. The provisions of this subsection requiring that the claimant serve a copy of the lien statement shall be deemed to have been complied with, if it is proven that the person to be served actually received a copy of the lien statement. No action to foreclose any lien may proceed or be entered against residential real property in this state unless the holder of a recorded equitable interest was served with notice in accordance with the provisions of this subsection.

(d) *Rights and liability of owner.* The owner of the real property shall not become liable for a greater amount than the owner has contracted to pay the original contractor, except for any payments to the contractor made:

(1) Prior to the expiration of the ~~three-month~~ time period for filing lien claims as provided in subsection (a)(1), if no warning statement is required by K.S.A. 60-1103a, and amendments thereto; or

(2) subsequent to the date the owner received the warning statement, if a warning statement is required by K.S.A. 60-1103a, and amendments thereto.

The owner may discharge any lien filed under this section which the contractor fails to discharge and credit such payment against the amount due the contractor.

Sec. 24. K.S.A. 2000 Supp. 60-1103b is hereby amended to read as follows: 60-1103b.

(a) As used in this section, "new residential property" means a new structure which is constructed for use as a residence and which is not used or intended for use as a residence for more than two families or for commercial purposes. "New residential property" does not include any improvement of a preexisting structure or construction of any addition, garage or outbuilding appurtenant to a preexisting structure.

(b) A lien for the furnishing of labor, equipment, materials or supplies for the construction of new residential property may be claimed pursuant to K.S.A. 60-1103 and amendments thereto after the passage of title to such new residential property to a good faith purchaser for value only if the claimant has filed a notice of intent to perform prior to the recording of the deed effecting passage of title to such new residential property. Such notice shall be filed in the office of the clerk of the district court of the county where the property is located.

(c) *In Johnson county, a lien for the furnishing of labor, equipment, materials or supplies for the construction of property other than new residential property may be claimed pursuant to K.S.A. 60-1101 or 60-1103, and amendments thereto, only if the claimant has filed a notice of intent to perform work at the job site within 30 days after commencement of*

*furnishing labor, equipment, materials or supplies to the job site. Such notice shall be filed in the office of the clerk of the district court of Johnson county.*

(e) (d) The notice of intent to perform and release thereof provided for in this section, to be effective, shall contain substantially the following statement, whichever is applicable:

NOTICE OF INTENT TO PERFORM

"I \_\_\_\_\_  
(name of supplier, subcontractor or contractor)

\_\_\_\_\_  
(address of supplier, subcontractor or contractor)

do hereby give public notice that I am a supplier, subcontractor or contractor or other person providing materials or labor on property owned by \_\_\_\_\_

\_\_\_\_\_  
(name of property owner)

and having the legal description as follows: \_\_\_\_\_

\_\_\_\_\_  
"\_\_\_\_\_  
RELEASE OF NOTICE OF INTENT TO PERFORM  
NO. \_\_\_\_\_ AND WAIVER OF LIEN

"I \_\_\_\_\_  
(name of supplier, subcontractor or contractor)

of \_\_\_\_\_  
(address of supplier, subcontractor or contractor)

do hereby acknowledge that I filed notice of intent to perform no. \_\_\_\_\_ covering property owned by \_\_\_\_\_

\_\_\_\_\_  
(name of property owner)

and having the legal description as follows: \_\_\_\_\_

\_\_\_\_\_  
In consideration of the sum of \$\_\_\_\_\_, the receipt of which is hereby acknowledged, I hereby direct the clerk of the district court of \_\_\_\_\_, Kansas to release the subject notice of intent to perform and do hereby waive and relinquish any statutory right to a lien for the furnishing of labor, equipment, materials or supplies to the above-described real estate under the statutes of the state of Kansas."

(d) (e) When any claimant who has filed a notice of intent to perform has been paid in full, such claimant shall be required to file in the office in which the notice of intent to perform was filed, and to pay any requisite filing fee, a release of such notice and waiver of lien which shall be executed by the claimant, shall identify the property as set forth in the notice of intent to perform, and state that it is the intention of the claimant to waive or relinquish any statutory right to a lien for the furnishing of labor or material to the property. Upon such filing, the notice of intent to perform previously filed by such claimant shall be of no further force or effect, and such claimant's right to a lien under K.S.A. 60-1101 and 60-1103, and amendments thereto, shall be extinguished.

(e) (f) Any owner of the real estate upon which a notice of intent to perform has been filed, or any owner's heirs or assigns, or anyone acting for such owner, heirs or assigns, and after payment in full to the claimant, may make demand upon the claimant filing the notice of intent to perform, for the filing of a release of the notice and waiver of lien as provided for in subsection (d) (e), unless the same has expired by virtue of the provisions set forth in subsection (f) (g).

(f) (g) Notwithstanding the requirements of subsections (d) and (e) and (f), a notice of intent to perform shall be of no further force or effect after the expiration of 18 months from the date of filing the same, unless within such time the claimant has filed a lien pursuant to K.S.A. 60-1101 and 60-1103, and amendments thereto.

Sec. 25. K.S.A. 2000 Supp. 61-2803 is hereby amended to read as follows: 61-2803. The supreme court of this state shall adopt rules to govern the electronic filing of court matters and the storage of and access by the public to the same; *and shall adopt rules or*

*orders* to govern the form of pleadings, other documents to be filed and such other matters as is necessary under the code of civil procedure for limited actions.

Sec. 26. K.S.A. 2000 Supp. 61-2907 is hereby amended to read as follows: 61-2907. (a) The petition shall be served on the defendant in accordance with the provisions of K.S.A. 2000 Supp. 61-3001 through 61-3006, and amendments thereto.

(b) All pleadings other than the petition, motions which cannot be heard *ex parte*, notices, and orders which are required by their terms to be served, shall be served upon the party's attorney of record, if the party is represented by an attorney, or upon the party if not represented by an attorney, in the following manner:

(1) By delivering a copy;

(2) by mailing a copy by first-class mail, certified mail or registered mail to the last known address; or

(3) if no address is known, by leaving a copy with the clerk of the court. For the purposes of this subsection, delivering a copy means: Handing it to the attorney or to the party; leaving it at the attorney's or party's office with the ~~clerk or other~~ person in charge thereof or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the attorney's or party's office is closed or the person to be served has no office, leaving it at the attorney's or party's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. All such pleadings, motions, notices and orders covered by this subsection shall be filed with the court either before service or within a reasonable time thereafter.

(c) The filing of pleadings and other papers with the court as required or permitted by this act shall be done in accordance with rules or *orders* of the supreme court.

Sec. 27. K.S.A. 2000 Supp. 61-3002 is hereby amended to read as follows: 61-3002. (a) The summons shall be issued by the clerk, dated the day it is issued and contain the information set forth ~~in the rules to be adopted by the supreme court of this state~~ pursuant to rules or orders of the supreme court. The summons shall state the time when the law requires the defendant to appear or file an answer in response to the petition, and shall notify such defendant that in case of such defendant's failure to appear or file an answer, judgment by default will be rendered against such defendant for the relief demanded in the petition. The summons shall be ~~in substantially in compliance with the form set forth in the rules to be adopted hereunder by the supreme court~~ pursuant to rules or orders of the supreme court.

(b) The time stated in the summons requiring the defendant to appear in response to the petition shall be determined by the court. Such time shall be not less than 11 nor more than 50 days after the date the summons is issued.

Sec. 28. K.S.A. 2000 Supp. 61-3003 is hereby amended to read as follows: 61-3003. (a) Methods of service of process within this state, except service by publication, are described in this section. Service of process outside the state shall be made in substantial compliance with the applicable provisions of K.S.A. 60-308, and amendments thereto.

(b) Who serves process. The sheriff of the county in which the action is filed shall serve any process by any method authorized by this section, or as otherwise provided by law, unless a party, either personally or through an attorney, elects to undertake responsibility for service and so notifies the clerk.

(c) Service by return receipt delivery.

(1) Service of process by return receipt delivery shall include service effected by certified mail, priority mail, commercial courier service, overnight delivery service, or other reliable personal delivery service to the party addressed, in each instance evidenced by a written or electronic receipt showing to whom delivered, date of delivery, address where delivered, and person or entity effecting delivery.

(2) The sheriff, party or party's attorney shall cause a copy of the process and petition or other document to be placed in a sealed envelope addressed to the person to be served in accordance with K.S.A. 2000 Supp. 61-3004, and amendments thereto, with postage or other delivery fees prepaid, and the sealed envelope placed in the custody of the person or entity effecting delivery.

(3) Service of process shall be considered obtained under K.S.A. 2000 Supp. 61-2902, and amendments thereto, upon the delivery of the sealed envelope.

(4) After service and return of the receipt, the sheriff, party, or party's attorney shall execute a return on service stating the nature of the process, to whom delivered, the date of delivery, the address where delivered, and the person or entity effecting delivery. The original return of service shall be filed with the clerk, along with a copy of the return receipt evidencing such delivery.

(5) If the sealed envelope is returned with an endorsement showing refusal to accept delivery, the sheriff, party or the party's attorney may send a copy of the process and petition or other document by first-class mail addressed to the party to be served, or may elect other methods of service. If mailed, service shall be considered obtained three days after the mailing by first-class mail, postage prepaid, which shall be evidenced by a certificate of service filed with the clerk. If the unopened envelope sent first-class mail is returned as undelivered for any reason, the sheriff, party or party's attorney shall file an amended certificate of service with the clerk indicating nondelivery, and service by such mailing shall not be considered obtained. Mere failure to claim return receipt delivery is not refusal of service within the meaning of this subsection.

(d) Personal and residence service.

(1) The party may file a written request with the clerk for personal or residence service. Personal service shall be made by delivering or offering to deliver a copy of the process and accompanying documents to the person to be served. Residence service shall be made by leaving a copy of the process and petition, or other document to be served, at the dwelling house or usual place of abode of the person to be served with some person of suitable age and discretion residing therein. If service cannot be made upon an individual, other than a minor or a disabled person, by personal or residence service, service may be made by leaving a copy of the process and petition, or other document to be served, at the defendant's dwelling house or usual place of abode and mailing a notice that such copy has been left at such house or place of abode to the individual by first-class mail.

(2) When process is to be served under this subsection, the clerk of the court shall deliver the process and sufficient copies of the process and petition, or other document to be served, to the sheriff of the county where the process is to be served or, if requested, to a person appointed to serve process or to the plaintiff's attorney.

(3) Service, levy and execution of all process under this subsection, including, but not limited to, writs of execution, orders of attachment, replevin orders, orders for delivery, writs of restitution and writs of assistance, shall be made by a sheriff within the sheriff's county, by the sheriff's deputy, by an attorney admitted to the practice of law before the supreme court of Kansas or by some person appointed as a process server by a judge or clerk of the district court, except that a subpoena may also be served by any other person who is not a party and is not less than 18 years of age. Process servers shall be appointed freely and may be authorized either to serve process in a single case or in cases generally during a fixed period of time. A process server or an authorized attorney may make the service anywhere in or out of the state and shall be allowed the fees prescribed in K.S.A. 28-110, and amendments thereto, for the sheriff and such other fees and costs as the court shall allow. All persons authorized under this subsection to serve, levy and execute process shall be considered an "officer" as used in K.S.A. 60-706 and 60-2401, and amendments thereto.

(4) In all cases when the person to be served, or an agent authorized by the person to accept service of process, refuses to receive copies thereof, the offer of the duly authorized process server to deliver copies thereof, and the refusal, shall be a sufficient service of the process.

(e) Publication service. Service of process by publication may be made pursuant to the provisions of K.S.A. 60-307, and amendments thereto, which are not inconsistent or in conflict with this act.

(f) Acknowledgment or appearance. An acknowledgment of service on the summons is equivalent to service. The voluntary appearance by a defendant is equivalent to service as of the date of appearance.

(g) *In addition to other methods listed in this section*, the person serving process may serve a garnishment process in any of the following methods:



(1) First class mail. Process may be sent to a person by first-class mail by placing a copy of the process and petition or other document to be served in an envelope addressed to the person to be served in accordance with K.S.A. 2000 Supp. 61-3004, and amendments thereto, at such person's last known address. The envelope used for such service shall be addressed to the person in accordance with K.S.A. 2000 Supp. 61-3004, and amendments thereto, and shall contain adequate postage. Such envelope shall be sealed and placed in the United States mail. Service by first-class mail shall be complete when the envelope is placed in the mail unless returned undelivered. Service shall be considered obtained upon the mailing by first-class mail unless returned undelivered.

(2) Telefacsimile communication. Process may be sent to a person by telefacsimile communication. Service is complete upon receipt of a confirmation generated by the transmitting machine.

(3) Internet electronic mail. Process may be sent to a person by internet electronic mail as provided in the rules to be adopted hereunder by the supreme court.

Sec. 29. K.S.A. 2000 Supp. 61-3302 is hereby amended to read as follows: 61-3302. (a) A judgment may be entered by master or other journal entry or judgment form approved by a judge. The judgment shall be effective from the date the journal entry or judgment form is filed with the clerk of the court. ~~The form of the A master journal entry or judgment form shall be substantially in compliance with the form set forth in the rules of the supreme court of this state pursuant to rules or orders of the supreme court.~~

(b) One or more cases may be shown on a *master* journal entry or judgment form as set forth ~~in the rules of the supreme court of this state pursuant to rules or orders of the supreme court.~~

(c) When more than one claim for relief is presented in a lawsuit, the court may direct the entry of a final judgment upon one or more but less than all of the claims upon such terms and conditions as set forth in the judgment of the court.

(d) Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, regardless of whether the party has demanded such relief in such party's pleadings. Upon entry of such judgment, the party in whose favor judgment is entered shall be deemed to have waived such party's right to recover any amount due in excess of such judgment, and such party may not recover in a subsequent lawsuit any amount in excess of such judgment.

(e) Whenever a party has commenced postjudgment proceedings for the enforcement of a judgment, and such judgment is subsequently set aside, reversed on appeal or otherwise nullified, such party shall not be liable for damages as a result of such postjudgment proceedings, unless it can be proven that the judgment upon which such proceedings were based was fraudulently obtained.

Sec. 30. K.S.A. 2000 Supp. 61-3505 is hereby amended to read as follows: 61-3505. This section shall apply if the garnishment is to attach intangible property other than earnings of the judgment debtor.

(a) The order of garnishment shall be substantially in compliance with the forms set forth ~~in the rules of the supreme court of this state pursuant to rules or orders of the supreme court.~~

(b) The order of garnishment and the appropriate form for the garnishee's answer shall be served on the garnishee in the same manner as process is to be served pursuant to K.S.A. 2000 Supp. 61-3001 through 61-3006, and amendments thereto, except that the garnishee may be served by any means provided under K.S.A. 2000 Supp. 61-3001 through 61-3006, and amendments thereto, at the garnishee's business or office location and this shall be considered proper service. ~~Two copies~~ A copy of the answer form shall be served if the garnishment order is not served electronically. If the order is served prior to a judgment, the order shall also be served on the judgment debtor, if the judgment debtor can be found, except that the order shall not be served on the judgment debtor until after service has been made on the garnishee. Failure to serve the judgment debtor shall not relieve the garnishee from liability under the order.

(c) The order of garnishment shall have the effect of attaching:

(1) All intangible property, funds, credits or other indebtedness belonging to or owing the judgment debtor, other than earnings, which is in the possession or under the control

of the garnishee, and all such credits and indebtedness due from the garnishee to the judgment debtor at the time of service of the order; and

(2) all such personal property coming into the possession or control of the garnishee and belonging to the judgment debtor, and all such credits and indebtedness becoming due to the judgment debtor between the time the order is served on the garnishee and the time the garnishee makes the answer of the garnishee. Where the garnishee is an executor or administrator of an estate in which the judgment debtor is or may become a legatee or distributee thereof, the order of garnishment shall have the effect of attaching and creating a first and prior lien upon any property or funds of such estate to which the judgment debtor is entitled upon distribution of the estate, and such garnishee shall be prohibited from paying over to the judgment debtor any of such property or funds until so ordered by the court from which the order of garnishment was issued.

(d) The garnishee, without prior agreement, may withhold and retain to defray the garnishee's costs, an administrative fee of \$10 for each order of garnishment that attaches funds, credits or indebtedness. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment, except that if the amount required to be withheld under the order for garnishment is greater than the amount of the funds, credits or indebtedness held by the garnishee, the fee shall be deducted from the amount withheld.

Sec. 31. K.S.A. 2000 Supp. 61-3507 is hereby amended to read as follows: 61-3507. This section shall apply if the garnishment is to attach earnings of the judgment debtor.

(a) The order of garnishment shall be substantially in compliance with the forms set forth ~~in the rules of the supreme court of this state~~ pursuant to rules or orders of the supreme court.

(b) The order of garnishment and the appropriate form for the garnishee's answer shall be served on the garnishee in the same manner as process is to be served pursuant to K.S.A. 2000 Supp. 61-3001 through 61-3006, and amendments thereto, except that the garnishee may be served by any means provided under K.S.A. 2000 Supp. 61-3001 through 61-3006, and amendments thereto, at the garnishee's business or office location and this shall be considered proper service. ~~Two copies~~ A copy of the answer form shall be served if the garnishment order is not served electronically. If the party having requested the garnishment is notified by the garnishee that the judgment debtor has never been employed by the garnishee or the judgment debtor's employment has been terminated, the party seeking the garnishment shall forthwith file a release with the clerk of the court of such garnishment.

(c) The order of garnishment shall have the effect of attaching the nonexempt portion of the judgment debtor's earnings for all pay periods which end while the order is in effect. The order shall remain in effect until either of the following occur, whichever is sooner: (1) The judgment is paid; or (2) the garnishment is released. The party for whom the garnishment is issued shall file a release with the clerk of the court upon satisfaction of the judgment and provide a copy thereof to the defendant and garnishee. Nonexempt earnings are earnings which are not exempt from wage garnishment pursuant to K.S.A. 60-2310, and amendments thereto. Computation of the nonexempt portion of the judgment debtor's wages for the pay period or periods covered by the order shall be made in accordance with the directions accompanying the garnishee's answer form, and a written explanation of the garnishee's computations shall be furnished to the judgment debtor with each paycheck from which earnings are withheld pursuant to the order of garnishment. The order of garnishment shall also constitute an order of the court directing the garnishee to pay to the judgment creditor all earnings which are to be withheld by the garnishee under the order of garnishment as more particularly provided in the answer of the garnishee.

(d) From income due the judgment debtor, the garnishee may withhold and retain to defray the garnishee's costs, an administrative fee of \$10 for each pay period for which income is withheld, not to exceed \$20 for each 30 day period for which income is withheld, whichever is less. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment. If the addition of this fee causes the total amount withheld to exceed the restrictions imposed by subsection (b) of K.S.A. 60-2310, and amendments thereto, the fee shall be deducted from the amount withheld.

(e) For any continuing garnishment, the party having requested the garnishment shall maintain an accounting and record of the judgment reflecting thereon all garnishment proceeds received and applied, all interest accrued thereon, and any and all credits applied in satisfaction thereof, and the remaining unsatisfied balance of such judgment. The party requesting the garnishment shall produce a copy of such accounting and record upon request of the court.

Sec. 32. K.S.A. 2000 Supp. 61-3508 is hereby amended to read as follows: 61-3508. (a) Immediately following the time the order of garnishment is served on the garnishee, the party seeking the garnishment shall send a notice to the judgment debtor in any reasonable manner, notifying the judgment debtor:

(1) That a garnishment order has been issued against the judgment debtor and the effect of such order;

(2) of the judgment debtor's right to assert any claim of exemption allowed under the law with respect to a garnishment against property other than earnings or of the judgment debtor's right to object to the calculation of exempt and nonexempt earnings with respect to a garnishment against the earnings of the debtor; and

(3) of the judgment debtor's right to a hearing on such claim or objection. The notice shall be substantially in compliance with the form set forth ~~in the rules of the supreme court of this state~~ pursuant to rules or orders of the supreme court, and shall contain a description of the exemptions that are applicable to garnishments and the procedure by which the judgment debtor can assert any claim of exemption. ~~A copy of the notice form shall be served on the garnishee with the order of garnishment.~~

(b) If the judgment debtor requests a hearing to assert any claim of exemption, the request shall be filed no later than 10 days following the date the notice is served on the judgment debtor. If a hearing is requested, the hearing shall be held by the court no sooner than five days nor later than 10 days after the request is filed. At the time the request for hearing is filed, the judgment debtor shall obtain from the clerk or court the date and time for the hearing which shall be noted on the request form. Immediately after the request for hearing is filed, the judgment debtor shall hand-deliver to the party seeking the garnishment or such party's attorney, if the party is represented by an attorney, or mail to the party seeking the garnishment or such party's attorney, if the party is represented by an attorney, by first-class mail at the party seeking the garnishment or such party's attorney's last known address, a copy of the request for hearing.

(c) If a hearing is held, the judgment debtor shall have the burden of proof to show that some or all of the property subject to the garnishment is exempt, and the court shall enter an order determining the exemption and such other order or orders as is appropriate.

Sec. 33. K.S.A. 2000 Supp. 61-3509 is hereby amended to read as follows: 61-3509. This section shall apply if the garnishment is to attach intangible property other than earnings of the judgment debtor.

(a) The answer of the garnishee shall be substantially in compliance with the forms set forth ~~in the rules of the supreme court of this state~~ pursuant to rules or orders of the supreme court.

(b) Within 10 days after service upon a garnishee of an order of garnishment the garnishee shall complete the answer in accordance with the instructions accompanying the answer form stating the facts with respect to the demands of the order and file the completed answer with the clerk of the court. The clerk shall cause a copy of the answer to be mailed promptly to the judgment creditor and judgment debtor at the addresses listed on the answer form. The answer shall be supported by unsworn declaration in the manner set forth on the answer form.

Sec. 34. K.S.A. 2000 Supp. 61-3510 is hereby amended to read as follows: 61-3510. This section shall apply if the garnishment is to attach earnings of the judgment debtor.

(a) The answer of the garnishee shall be substantially in compliance with the forms set forth ~~in the rules of the supreme court of this state~~ pursuant to rules or orders of the supreme court.

(b) Within 15 days following the end of each month, the garnishee shall complete the answer in accordance with the instructions accompanying the answer form for all pay periods ending during the month and send the completed answer to each judgment creditor and

judgment debtor at the addresses listed on the answer form. The garnishee shall designate on the answer in the space provided on the answer form the name and case number for each judgment creditor who has a garnishment order in effect for the same debtor at the end of each month and the amount that is due each judgment creditor under the garnishment in accordance with the instructions accompanying the answer form. Only one answer needs to be completed for each judgment debtor by the garnishee and the garnishee may duplicate the completed answer in any manner the garnishee desires for distribution to each judgment creditor and judgment debtor. The answer shall be supported by unsworn declaration in the manner set forth on the answer form.

(c) If there are other liens against the judgment debtor's earnings which by law have priority over garnishments, the garnishee shall so indicate on the answer. In such event, the garnishment shall remain in effect but no earnings of the debtor shall be withheld under the garnishment order unless and until all of the other liens having priority are released or satisfied or the earnings being withheld under all of such liens are less than the amount which is exempt under K.S.A. 60-2310, and amendments thereto.

Sec. 35. K.S.A. 2000 Supp. 61-3513 is hereby amended to read as follows: 61-3513. This section shall apply if the garnishment is to attach earnings of the judgment debtor. If no reply is made to the answer of garnishee within 10 days following the date the garnishee has ~~completed~~ sent the *completed answer to the judgment creditor and judgment debtor*, the garnishee shall promptly thereafter pay the earnings withheld as indicated on the answer to all judgment creditors designated on the answer in the amount due each as indicated on the answer, unless the garnishee receives prior to such payment an order of the court to the contrary. If any judgment creditor receives more than they are entitled to, that judgment creditor shall promptly pay the excess amount pro-rata to the other judgment creditors designated on the answer, or if no such other judgment creditors are designated, the judgment creditor shall promptly pay the excess amount to the judgment debtor.

Sec. 36. K.S.A. 2000 Supp. 61-3604 is hereby amended to read as follows: 61-3604. (a) As an aid to the collection of a judgment, the judgment creditor is entitled to have an order for a hearing in aid of execution issued by the court at any time after 10 days after judgment. There is no requirement that an execution first be issued and returned unsatisfied. No application for such order needs to be filed except as specially required in this section.

(b) An order for a hearing in aid of execution may be issued at the request of a judgment creditor in an individual case or by a master request covering more than one case, and shall require the judgment debtor to *either: (1) Contact the judgment creditor or attorney prior to the date set for the hearing to furnish information under oath or penalty of perjury concerning the judgment debtor's property and income; or (2) appear and furnish information under oath or penalty of perjury when required by the court concerning the debtor's property and income before the court at a time and place specified in the order within the county where the court is situated. The form of the order shall be substantially in compliance with the form set forth in rules of the supreme court of this state pursuant to rules or orders of the supreme court.* The court may cancel the hearing if the judgment debtor has furnished to the judgment creditor satisfactory information concerning the debtor's property and income prior to the date and time for the hearing. Witnesses may also be subpoenaed to testify at the hearing.

(c) If the judgment debtor resides in another county in this state or outside of this state, the court can order such judgment debtor to appear if the court finds that it will not cause undue hardship on the judgment debtor to appear.

(d) It shall be the duty of the judge to assist in the enforcement of the judgments of the court. To this end, at any hearing in aid of execution, when the existence of any nonexempt property of the judgment debtor is disclosed, the court shall order the judgment debtor to deliver the property to the sheriff or a duly appointed process server. If the property is other than currency, the property shall be sold in the same manner as other property taken under execution is sold and the proceeds from the sale shall be applied to the judgment and costs.

Sec. 37. K.S.A. 2000 Supp. 61-3606 is hereby amended to read as follows: 61-3606. If a person fails to appear in response to an order for a hearing in aid of execution, or if a person who has been subpoenaed to testify at the hearing fails to appear or to testify con-

cerning anything about which the person can lawfully be questioned, the court shall issue a citation for contempt to that person providing that the person must ~~either:~~

~~(a) Contact the judgment creditor or attorney within 10 days to furnish information under oath or penalty of perjury concerning the judgment debtor's property and income; or~~

~~(b) appear in court at a date and time specified to show cause why the debtor should not be held in contempt and punished for contempt. The form of the citation for contempt shall be substantially in compliance with the form set forth in rules of the supreme court of this state pursuant to rules or orders of the supreme court.~~ The citation for contempt does not need to be supported by affidavit or other verification.

Sec. 38. K.S.A. 2000 Supp. 61-3608 is hereby amended to read as follows: 61-3608. (a) If a person fails to comply with the ~~either of the~~ requirements of K.S.A. 2000 Supp. 61-3606, and amendments thereto, or if it appears to the court that the person is hiding to avoid the process of the court or is about to leave the county for that purpose, the court may issue a bench warrant commanding the sheriff to whom it is directed to bring such person before the court to answer for contempt. The bench warrant does not need to be supported by affidavit or other verification. The court may make such orders concerning the release of the person pending the hearing as the court deems proper.

(b) When such person is brought before the court, a hearing shall be held to determine if the person should be punished for contempt. If the court determines that the person is guilty of contempt, the court may punish the person by a fine in an amount to be set by the court or by imprisonment in the county jail for a period of not to exceed 30 days, or both. The court may also order the person guilty of contempt to pay the reasonable attorney fees incurred by the judgment creditor in the filing of the bench warrant and the hearing thereon.

Sec. 39. K.S.A. 2000 Supp. 61-3803 is hereby amended to read as follows: 61-3803. Before a lawsuit to evict a person pursuant to K.S.A. 2000 Supp. 61-3801 through 61-3808, and amendments thereto, is filed, the party desiring to file such lawsuit shall deliver to the other party a notice to leave the premises for which possession is sought. The notice shall be delivered at least three days before commencing the lawsuit, by leaving a written copy with the other party or by leaving a copy thereof with any person over the age of 12 years residing on the premises described in such notice, or if no such person is found upon the premises, by posting a copy of such notice in a conspicuous place thereon, or by mailing a copy of the notice to the other party at the address of the premises described in the notice. The three day notice period provided for in this section shall be computed as three consecutive 24-hour periods to commence at the time the notice is delivered, posted or mailed. If the notice is mailed, an additional two days from the date of mailing shall be allowed for the person to leave the premises before the lawsuit is filed. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation of the notice period. ~~The form of the notice shall be substantially in compliance with the form set forth in the rules of the supreme court of this state pursuant to rules or orders of the supreme court.~~

Sec. 40. K.S.A. 2000 Supp. 61-3804 is hereby amended to read as follows: 61-3804. The petition shall describe the premises for which possession is sought and why the plaintiff is seeking possession. If there is rent due for possession of the premises, the petition may include a request for judgment for that amount or the plaintiff may bring a subsequent lawsuit for that amount. ~~The form of the petition shall be substantially in compliance with the form set forth in the rules of the supreme court of this state pursuant to rules or orders of the supreme court.~~

Sec. 41. K.S.A. 2000 Supp. 61-3808 is hereby amended to read as follows: 61-3808. (a) If judgment is entered against the defendant for possession of the subject premises, the court shall issue, at the request of the plaintiff, a writ of restitution which shall direct anyone who is authorized to serve process and who is named in the writ to place the plaintiff in possession of the premises described in the writ. ~~The form of the writ shall be substantially in compliance with the form set forth in the rules of the supreme court of this state pursuant to rules or orders of the supreme court.~~

(b) The writ of restitution shall be executed within 10 days after the person named in the writ receives it, and that person shall file a return as with other writs under the code of

civil procedure for limited actions. The person serving the writ may use such reasonable force as is necessary to execute the writ.

(c) If the person named in the writ receives a notice from the court that the proceedings have been stayed by appeal, that person shall immediately delay all further proceedings upon the execution. If the premises have been restored to the plaintiff, the person named in the writ shall immediately place the defendant in the possession thereof.

Sec. 42. K.S.A. 2000 Supp. 61-4105 is hereby amended to read as follows: 61-4105. The forms ~~contained in the rules to be adopted hereunder by the supreme court set forth pursuant to rules or orders of the supreme court~~ are sufficient under this act and are intended to indicate the simplicity and brevity of statement which this act contemplates.”;

And by renumbering remaining sections accordingly;

Also on page 5, in line 21, by striking “60-4001” and inserting “60-465, 60-714, 60-715, 60-716, 60-720, 60-1101, 60-1102 and 60-1103, as amended by section 7 of chapter 175 of 2000 Session Laws of Kansas.”; in line 22, by striking “60-2418” and inserting “19-101a, as amended by section 14 of 2001 Substitute for House Bill No. 2005, 19-101a, as amended by section 4 of 2001 House Bill No. 2068, 60-205, 60-717, 60-718, 60-726, 60-728, 60-1103b, 60-2418, 61-2803, 61-2906, 61-2907, 61-3002, 61-3003, 61-3302, 61-3401, 61-3505, 61-3507, 61-3508, 61-3509, 61-3510, 61-3513, 61-3604, 61-3606, 61-3608, 61-3803, 61-3804, 61-3808 and 61-4105 and Forms No. 27 and 28 in the appendix of forms following K.S.A. 60-269”;

In the title, in line 12, by striking all after the first semicolon; in line 13, by striking all before “amending”; also in line 13, by striking “60-4001” and inserting “60-465, 60-1101, 60-1102 and 60-1103, as amended by section 7 of chapter 175 of the 2000 Session Laws of Kansas.”; in line 14, before “60-2418”, by inserting “19-101a, as amended by section 14 of 2001 Substitute for House Bill No. 2005, 60-205.”; also in line 14, after “60-2418”, by inserting “, 60-1103b, 61-2803, 61-2907, 61-3002, 61-3003, 61-3302, 61-3505, 61-3507, 61-3508, 61-3509, 61-3510, 61-3513, 61-3604, 61-3606, 61-3608, 61-3803, 61-3804, 61-3808 and 61-4105”; in line 15, after “sections”, by inserting “; also repealing K.S.A. 60-714, 60-715, 60-716 and 60-720 and K.S.A. 2000 Supp. 19-101a, as amended by section 4 of 2001 House Bill No. 2068, 60-717, 60-718, 60-726, 60-728, 61-2906 and 61-3401 and Forms No. 27 and 28 in the appendix of forms following K.S.A. 60-269”;

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

JOHN VRATIL  
DEREK SCHMIDT  
GRETA GOODWIN  
*Conferees on part of Senate*

MICHAEL R. O'NEAL  
WARD LOYD  
JANICE L. PAULS  
*Conferees on part of House*

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2175**.

On roll call, the vote was: Yeas 27, Nays 11, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Corbin, Donovan, Emler, Goodwin, Haley, Harrington, Huelskamp, Jenkins, Jordan, Kerr, Morris, O'Connor, Oleen, Praeger, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Barone, Clark, Feleciano, Gilstrap, Gooch, Hensley, Jackson, Lee, Pugh, Steineger, Tyson.

Absent or Not Voting: Downey, Lyon.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: This bill caused my no vote again because it combined several bills, one of which I had already opposed regarding garnishment of wages. This garnishment procedure causes the employer additional paperwork adding to administrative costs for the company.—DAVID D. JACKSON

**ORIGINAL MOTION**

On motion of Senator Brownlee, the Senate acceded to the request of the House for a conference on **S Sub for HB 2034**.

The Vice-President appointed Senators Brownlee, Emler and Barone as third conferees on the part of the Senate.

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **HB 2590**.

The Vice-President appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

On motion of Senator Oleen, the Senate recessed until 7:30 p.m.

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**EVENING SESSION**

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

**ORIGINAL MOTION**

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **HB 2600**.

The President appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

**REPORTS OF STANDING COMMITTEES**

Committee on **Elections and Local Government** recommends **Substitute for HB 2489**, as amended by Senate Committee, be further amended on page 6, in line 30, by striking "\$15" and inserting "\$25";

On page 8, in line 42, before "46-269," by inserting "as amended by section 151 of 2001 Senate Bill No. 15,";

On page 1, in the title, in line 15, after "46-237a" by inserting ", as amended by section 151 of 2001 Senate Bill No. 15"; and the substitute bill be passed as amended.

**REPORT ON ENGROSSED BILLS**

**SB 45** reported correctly engrossed May 5, 2001.

Also: **SB 195**, **SB 205** correctly re-engrossed May 6, 2001.

On motion of Senator Oleen, the Senate recessed until 9:30 p.m.

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

**MESSAGE FROM THE HOUSE**

Announcing the House adopts the Conference Committee Report to agree to disagree on **Senate Substitute for HB 2067** and has appointed Representatives Boston, Bethell and Showalter as second conferees on the part of the House.

**FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS**

On motion of Senator Oleen an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **HCR 5032** was advanced to Final Action, subject to amendment, debate and roll call.

**HCR 5032**, A concurrent resolution approving the creation of the City of Pittsburg, Kansas, Port Authority, was considered on final action.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

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

Absent or Not Voting: Downey, Lyon.  
The resolution was adopted.

#### MESSAGE FROM THE HOUSE

Announcing the House concurs in Senate amendments to **HB 2065** and requests the Senate to return the bill.

On motion of Senator Oleen, the Senate recessed until 10:30 p.m.

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

#### MESSAGE FROM THE HOUSE

The House announces the appointment of Representative Huff to replace Representative Edmonds as a conferee on **House Substitute for SB 332**.

#### 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: **HB 2119**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2067**, 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 as Senate Substitute for House Bill No. 2067 as follows:

On page 2, in line 30, by striking “, 21-3517 and subsection (b)(3) of K.S.A. 21-3701” and inserting “and 21-3517”;

On page 3, in line 1, by striking “, 21-3517 and subsection (b)(3) of K.S.A. 21-3701” and inserting “and 21-3517”; after line 32, by inserting the following:

“(f) (1) The secretary of health and environment shall provide each operator requesting information under this section with the criminal history record information concerning felony convictions and convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, in writing and within three working days of receipt of such information from the Kansas bureau of investigation. The criminal history record information shall be provided regardless of whether the information discloses that the subject of the request has been convicted of an offense enumerated in subsection (a).

(2) When an offense enumerated in subsection (a) exists in the criminal history record information, and when further confirmation regarding criminal history record information is required from the appropriate court of jurisdiction or Kansas department of corrections, the secretary shall notify each operator that requests information under this section in writing and within three working days of receipt from the Kansas bureau of investigation that further confirmation is required. The secretary shall provide to the operator requesting information under this section information in writing and within three working days of receipt of such information from the appropriate court of jurisdiction or Kansas department of corrections regarding confirmation regarding the criminal history record information.

(3) Whenever the criminal history record information reveals that the subject of the request has no criminal history on record, the secretary shall provide notice to each operator requesting information under this section, in writing and within three working days after receipt of such information from the Kansas bureau of investigation.

(4) The secretary of health and environment shall not provide each operator requesting information under this section with the juvenile criminal history record information which relates to a person subject to a background check as is provided by K.S.A. 38-1618 and amendments thereto. The secretary shall notify the operator that requested the information, in writing and within three working days of receipt of such information from the Kansas bureau of investigation, whether juvenile criminal history record information received pursuant to this section reveals that the operator would or would not be prohibited by this section from employing the subject of the request for information.



(5) An operator who receives criminal history record information under this subsection (f) shall keep such information confidential, except that the operator may disclose such information to the person who is the subject of the request for information. A violation of this paragraph (5) shall be an unclassified misdemeanor punishable by a fine of \$100.”;

And by relettering subsections accordingly;

Also on page 3, by striking all in lines 38 through 43;

On page 4, by striking all in lines 1 through 28;

On page 5, in line 6, by striking the comma where it appears for the last time; in line 7, by striking all before the comma and inserting “and 21-3517”;

On page 6, in line 30, by striking “, 21-3517 and subsection (b)(3) of K.S.A. 21-3701” and inserting “and 21-3517”;

On page 7, in line 1, by striking “, 21-3517 and subsection (b)(3) of K.S.A. 21-3701” and inserting “and 21-3517”; after line 33, by inserting the following:

“(f) (1) The secretary of health and environment shall provide each operator requesting information under this section with the criminal history record information concerning felony convictions and convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, in writing and within three working days of receipt of such information from the Kansas bureau of investigation. The criminal history record information shall be provided regardless of whether the information discloses that the subject of the request has been convicted of an offense enumerated in subsection (a).

(2) When an offense enumerated in subsection (a) exists in the criminal history record information, and when further confirmation regarding criminal history record information is required from the appropriate court of jurisdiction or Kansas department of corrections, the secretary shall notify each operator that requests information under this section in writing and within three working days of receipt from the Kansas bureau of investigation that further confirmation is required. The secretary shall provide to the operator requesting information under this section information in writing and within three working days of receipt of such information from the appropriate court of jurisdiction or Kansas department of corrections regarding confirmation regarding the criminal history record information.

(3) Whenever the criminal history record information reveals that the subject of the request has no criminal history on record, the secretary shall provide notice to each operator requesting information under this section, in writing and within three working days after receipt of such information from the Kansas bureau of investigation.

(4) The secretary of health and environment shall not provide each operator requesting information under this section with the juvenile criminal history record information which relates to a person subject to a background check as is provided by K.S.A. 38-1618 and amendments thereto. The secretary shall notify the operator that requested the information, in writing and within three working days of receipt of such information from the Kansas bureau of investigation, whether juvenile criminal history record information received pursuant to this section reveals that the operator would or would not be prohibited by this section from employing the subject of the request for information.

(5) An operator who receives criminal history record information under this subsection (f) shall keep such information confidential, except that the operator may disclose such information to the person who is the subject of the request for information. A violation of this paragraph (5) shall be an unclassified misdemeanor punishable by a fine of \$100.”;

And by relettering subsections accordingly;

Also on page 7, by striking all in lines 39 through 43;

On page 8, by striking all in lines 1 through 29;

On page 9, in line 4, by striking the comma where it appears for the last time; in line 5, by striking all before the comma and inserting “and 21-3517”; after line 13, by inserting the following:

“Sec. 3. K.S.A. 65-3506 is hereby amended to read as follows: 65-3506. (a) There is hereby established the board of adult care home administrators. The board shall be attached to the department of health and environment and shall be within the department as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the secretary of health and environment. The department shall serve as the administrative and enforcement agency of the board

in all respects and shall perform such services and duties as it may be legally called upon to perform. *The attorney for the board shall be an assistant attorney general appointed by the attorney general. The office of the attorney general shall serve as the enforcement agency for the board.* All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board and by the secretary of health and environment.

(b) The board of adult care home administrators shall be composed of seven members appointed by the ~~secretary of health and environment~~ *governor*, three of whom are representatives of professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients, two consumer representatives who have no current or previous involvement in the financial affairs or as a member of the governing body of any adult care home or any association directly concerned with the regulation or licensure of adult care homes in the state and two adult care home administrators who, at the time of their appointment, are licensed by the state and are actively engaged in the administration of adult care homes within the state. No more than three members of the board may be licensed administrators. Members of the board, other than the licensed administrators, shall have no direct financial interest in adult care homes. Members of the board shall serve on the board for terms of two years or until otherwise disqualified from serving on the board, except two of the members first appointed shall serve on the board for terms of one year and thereafter, upon the expiration of such one year terms, successors shall be appointed in the same manner as the original appointments for terms of two years. *The provisions of this act shall not affect the office of any member of the board of adult care home administrators appointed prior to the effective date of this act. All members of the board appointed after the effective date of this act shall be appointed by the governor.*

(c) Members of the board of adult care home administrators shall meet at such times as may be appropriate but in no case less than once each four months. The chairperson of the board shall be elected annually from among the members of the board. All final orders shall be in writing and shall be signed by the chairperson and approved by the board.

(d) Members of the board who attend meetings of such board, or attend a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

New Sec. 4. The department of health and environment shall make grants in the amount of \$300,000 from moneys appropriated for the fiscal year ending June 30, 2002, in the operating expenditures (including official hospitality) account of the state general fund pursuant to contracts for programs that provide services for women which enable them to carry their pregnancies to term, which are hereby authorized and directed to be entered into by the secretary of health and environment with the same not-for-profit organizations that the secretary entered into contracts with pursuant to section 30(h) of chapter 160 of the 1999 Session Laws of Kansas for fiscal year 2000: *Provided*, That such contracted services may include an array of social services relating to pregnancy maintenance and shall provide that no individuals who are unable to pay shall be denied the delivery or provision of pregnancy maintenance services: *Provided further*, That no contract or contracts under pregnancy maintenance programs shall be entered into with any group performing, promoting, referring for or educating in favor of abortion: *And provided further*, That a not-for-profit organization awarded a contract under this proviso shall match state moneys under this contract on the basis of a 50% match from a not-for-profit organization and a 50% match from the department of health and environment: *And provided further*, That the secretary of health and environment shall submit a report to the legislature at the beginning of the regular session of the legislature in 2002 on the results and outcomes of such pregnancy maintenance programs: *And provided further*, That no part of the grant moneys shall be used for any political purposes.

New Sec. 5. (a) In carrying out the provisions of subsection (b)(2) of K.S.A. 39-1804, and amendments thereto, the secretary shall ensure annually that all available state funds appropriated for community developmental disability services are used as match or certified match to secure federal financial participation to the maximum extent feasible.

(b) In addition, the secretary shall ensure that funding provided to any community developmental disability organization or any affiliate thereof by any taxing subdivision of the state is utilized as certified match for federal financial participation to the maximum

extent feasible. Any public funding identified under this section shall be retained at the local level and the authority for the use of such revenues shall be subject to the statutory authority under which such funds are collected and expended and to any agreements entered into by the local authority with the community service provider or community developmental disability organization to which such funds have been granted, appropriated or otherwise transferred. No community developmental disability organization or affiliate shall use any funding received pursuant to this section to supplant funds previously received from any taxing subdivision of the state. In the event that such funding provided by any taxing subdivision of the state becomes unavailable for any reason, the state shall have no obligation, except as otherwise provided by law, to provide funding in the amount no longer available in order to retain the same level of federal financial participation.

(c) All actions of the secretary to maximize the availability of federal financial participation shall be in accordance with applicable federal statutes and regulations.

(d) Except as otherwise provided in this section, revenue derived from the maximization of federal financial participation shall be used exclusively (1) to increase the regular, non-specialized tier reimbursement rate above the state fiscal year 2001 levels for the home and community based services developmental disabilities waiver for day, residential, and individual and family supports, provided on or after July 1, 2001, based on an apportionment agreed to by the secretary and the community developmental disability organizations; or (2) for other medicaid-reimbursable services for persons with developmental disabilities based upon an agreement entered into by the secretary and community developmental disability organizations by written contract. The secretary shall not be required to utilize more than \$15,000,000 in funding provided to community developmental disability organizations and their affiliates by any taxing subdivision of the state as match for additional federal financial participation in any state fiscal year.

(e) The secretary shall require that the council of community members in each service area convene representatives of the community developmental disability organization, community service providers, families, consumers and other community stakeholders to develop and implement community capacity building plans annually, to improve the quality and efficiency of service delivery. Each such local plan shall: (1) Identify strengths within the local service area, including natural and community supports; (2) identify barriers to meeting the independence, productivity, integration and inclusion goals of the developmental disabilities reform act; and (3) identify key goals that will be addressed in the service area to develop and maintain such community capacity.

(f) The secretary shall report regularly to the SRS oversight committee during the interim period prior to the 2002 regular session of the legislature and shall report to the legislature on or before the 15th day of each regular session on the results of plans to maximize federal financial participation and on the results of community capacity building plans developed and implemented within each service area.

(g) This section shall be construed to be part of and supplemental to the developmental disabilities reform act.”;

And by renumbering sections accordingly;

Also on page 9, in line 14, after “39-970” by inserting “and 65-3506”;

On page 1, in the title, in line 10, before “amending” by inserting “concerning adult care home, home health agency, developmental disability and pregnancy maintenance service providers;”; in line 11, after “39-970” by inserting “and 65-3506”;

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

SUSAN WAGLE  
JIM BARNETT  
CHRIS STEINEGER  
*Conferees on part of Senate*

GARRY BOSTON  
BOB BOTHELL  
JUDY SHOWALTER  
*Conferees on part of House*

Senator Wagle moved the Senate adopt the Conference Committee Report on **S Sub for HB 2067**.

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

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

Nays: Lee.

Absent or Not Voting: Downey, Lyon.

The Conference Committee report was adopted.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2119**, submits the following report:

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

On page 1, by striking all in lines 20 through 43;

On page 2, by striking all in lines 1 through 33 and inserting:

"New Section 1. (a) The director of purchases shall conduct a pilot study utilizing the reverse auctioning electronic procurement process for the purchase of selected goods or materials for one or more state agencies in accordance with this section. The director of purchases shall adopt policies and procedures for such pilot project in accordance with and subject to the provisions of this section.

(b) The provisions of K.S.A. 75-430, and amendments thereto, relating to advertisements in the Kansas register and the provisions of K.S.A. 75-3739 *et seq.*, and amendments thereto, regarding procedures for sealed bidding and the opening of bids shall not apply to bids or purchases conducted under the pilot project utilizing the reverse auctioning electronic procurement process in accordance with this section. All bids submitted under the pilot project utilizing the reverse auctioning electronic procurement process in accordance with this section shall be subject to the open records act.

(c) Reverse auctioning shall not be used for the acquisition of any services for construction projects or for the acquisition of any other services.

(d) On or before January 15, 2002, and each six months thereafter, the director of purchases shall submit a written report to the secretary of the legislative coordinating council, the secretary of the senate and the chief clerk of the house of representatives on the activities and results of the pilot project utilizing the reverse auctioning electronic procurement process under this section and make recommendations whether or not the authority to use such procurement process should be continued beyond June 30, 2003. The director of purchases also shall notify each member of the legislature of the availability of copies of such report.

(e) Each year, the legislative post auditor shall conduct a performance audit of the pilot project utilizing the reverse auctioning electronic procurement process under this section and the activities of the division of purchases in relation to such pilot project. In conducting such audit, the post auditor shall include a determination of the applicable factors specified in subsection (b) of K.S.A. 74-7287, and amendments thereto, and such other factors as may be directed by the legislative post audit committee. Such audit shall be conducted as soon after the close of the fiscal year as practicable. Upon completion of such audit, the legislative post audit committee shall review and accept such report.

(f) As used in this section, "reverse auctioning" means a procurement process following procedures approved by the director of purchases where bidders are invited to bid on specific goods through real-time electronic bidding, with the award being made to the lowest responsible and responsive bidder; during the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for the bid opening.

(g) The provisions of this section shall expire June 30, 2003.

New Sec. 2. (a) The secretary of transportation is hereby authorized to implement electronic submission of sealed bids as a procurement process accessible by highway construction contractors and other qualified contractors for highway projects. Prior to implementing such procurement process, the secretary of transportation shall adopt any policies and procedures which are necessary for the acceptance of sealed bids by electronic on-line submission.

The secretary of transportation may adopt any rules and regulations necessary to implement the provisions of this section.

(b) The secretary of transportation shall not acquire any goods or services through any process of reverse auctioning.

(c) As used in this section, "sealed bids" may include a procurement process following procedures approved by the secretary of transportation in which bids are received electronically over the internet.";

By renumbering sections accordingly;

In the title, in line 15, following "concerning" by inserting "public bodies; relating to procurement procedures used thereby; relating to";

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

BARBARA P. ALLEN  
KARIN S. BROWNLEE  
MARK GILSTRAP  
*Conferees on part of Senate*

GERRY RAY  
DEENA HORST  
DOUG GATEWOOD  
*Conferees on part of House*

Senator Brownlee moved the Senate adopt the Conference Committee Report on **HB 2119**.

On roll call, the vote was: Yeas 36, Nays 2, Present and Passing 0, Absent or Not Voting 2.

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

Nays: Lee, Pugh.

Absent or Not Voting: Downey, Lyon.

The Conference Committee report was adopted.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2336**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

DUANE UMBARGER  
JOHN VRATIL  
ANTHONY HENSLEY  
*Conferees on part of Senate*

RALPH M. TANNER  
KATHE LLOYD  
*Conferees on part of House*

On motion of Senator Umbarger, the Senate adopted the conference committee report on **S Sub for HB 2336**, and requested a new conference committee be appointed.

The President appointed Senators Umbarger, Vratil and Hensley as a second Conference Committee on the part of the Senate on **S Sub for HB 2336**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2600**, submits the following report:

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

On page 37, after line 2, by inserting the following:

"Sec. 17. K.S.A. 2000 Supp. 74-7336, as amended by section 18 of 2001 Senate Bill No. 67, is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit ~~4.81%~~ 7.99% to the crime victims compensation fund, ~~3.6%~~ 1.45% to the crime victims assistance fund, ~~4.98%~~ 2.01% to the community alcoholism and intoxication programs fund and ~~4.98%~~ 2.01% to the department of corrections alcohol and drug abuse treatment fund. The remainder of the remittances shall be credited to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.";

And by renumbering sections accordingly;

Also on page 37, in line 22, by striking "and"; in line 23, before "are" by inserting "K.S.A. 2000 Supp. 74-7336, as amended by section 18 of 2001 Senate Bill No. 67, and K.S.A. 2000 Supp. 74-7336, as amended by section 4 of 2001 House Bill No. 2596";

On page 1, in the title, in line 20, before the semicolon, by inserting ", and K.S.A. 2000 Supp. 74-7336, as amended by section 18 of 2001 Senate Bill No. 67, and by repealing the existing sections"; in line 31, by striking "and"; in line 32, preceding the period by inserting ", and K.S.A. 2000 Supp. 74-7336, as amended by section 4 of 2001 House Bill No. 2596";

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

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

KENNY A. WILK  
MELVIN NEUFELD  
ROCKY NICHOLS  
*Conferees on part of House*

Senator Morris moved the Senate adopt the Conference Committee Report on **HB 2600**.

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

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

Nays: Lee.

Absent or Not Voting: Downey, Lyon.

The Conference Committee report was adopted.

**MESSAGE FROM THE HOUSE**

Announcing the House not adopts the conference committee report on **HB 2175**, requests a conference and appoints Representatives Loyd, Patterson and Pauls as second conferees on the part of the House.

The House concurs in Senate amendments to **HB 2480** and requests the Senate to return the bill.

The House concurs in Senate amendments to **HB 2103** and requests the Senate to return the bill.

The House adopts the conference committee report on **SB 19**.

#### ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2175**.

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

On motion of Senator Oleen, the Senate recessed until 12:30 a.m.

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

#### MESSAGE FROM THE HOUSE

Announcing passage of **House Substitute for SB 9**.

The House adopts the conference committee report on **SB 321**.

Announcing the House adopts the Conference Committee Report to agree to disagree on **Senate Substitute for HB 2336** and has appointed Representatives Tanner, Lloyd and Reardon as second conferees on the part of the House.

Announcing the House adopts the conference committee report on **HB 2119**.

The House adopts the conference committee report on **Senate Substitute for HB 2067**.

The House adopts the conference committee report on **HB 2600**.

#### 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 bills: **H Sub for SB 9; SB 19**.

#### CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Vratil the Senate nonconcurrred in the House amendments to **H Sub for SB 9** and requested a conference committee be appointed.

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

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 19**, submits the following report:

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

On page 3 by striking all in lines 5 through 43;

By striking all on pages 4 through 6 and inserting the following:

“Sec. 3. (a) Commencing in plan year 2002, within the limits of appropriations thereof, the Kansas state employees health care commission shall establish a pilot program which provides that, if an active employee of the state of Kansas is enrolled in a health care benefits plan administered by the Kansas state employees health care commission, pursuant to K.S.A. 75-6501 *et seq.*, and amendments thereto, the commission shall provide that a percentage determined by the commission, within the limits of appropriations for the pilot program, of the cost to cover an eligible child or children shall be paid as an employer contribution for the participation of any eligible child or children in the state health benefits program.

(b) As used in this section, “eligible child” means any child who is an eligible dependent pursuant to K.A.R. 108-1-1 and who is otherwise eligible for insurance coverage under the insurance plan authorized by K.S.A. 38-2001 and amendments thereto and under the guidelines for eligibility developed by the commission within the limits of appropriations for the pilot program but is not eligible solely because the child is a member of a family that is eligible for health benefits coverage under a state health benefits plan administered by the Kansas state employees health care commission.

(c) The Kansas state employees health care commission shall report its findings and any recommendations which the commission may have concerning the pilot program established under this section to the governor and to the legislature annually.

(d) The secretary of administration is hereby authorized to receive grants, gifts or donations from the United States government, or its agencies, the Sunflower Foundation: Healthcare for Kansas, or any other source whatsoever for the purposes of the pilot program established under this section and amendments thereto, and any moneys so received shall be deposited in the state treasury and credited to the cafeteria benefits fund established by K.S.A. 75-6513 and amendments thereto. All funds received pursuant to this section shall be placed in a separate account within the cafeteria benefits fund. All expenditures made from such fund for the purposes of this section shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued by the secretary of administration or a person designated by the secretary of administration.”;

By renumbering the remaining section accordingly;

On page 1, in the title, in line 16, by striking “insurance”; in line 17, by striking “; relating to cover-”; by striking all in lines 18 and 19; in line 20, by striking all before the period and inserting “and relating to the state employees health benefits program”;

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

ROBERT TOMLINSON  
STANLEY DREHER  
NANCY KIRK  
*Conferees on part of House*

SANDY PRAEGER  
RUTH TEICHMAN  
PAUL FELECIANO, JR.  
*Conferees on part of Senate*

Senator Praeger moved the Senate adopt the Conference Committee Report on **SB 19**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 321**, submits the following report:

The House recedes from all of its amendments to the bill;

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 321**.

Senator Steineger moved the Senate adjourn until 12:00 noon on Monday, May 7, 2001.  
The motion carried.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

