

# Journal of the House

SEVENTY-SIXTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Tuesday, May 14, 2002, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Aurand in the chair.

The roll was called with 122 members present.

Rep. O'Brien was excused on verified illness.

Reps. Henderson and Neufeld were excused on excused absence by the Speaker.

Present later: Reps. Henderson and Neufeld.

Prayer by Chaplain Chamberlain:

Almighty and gracious God, we know you love us. We are humbled that you bless us in so many ways. We praise you and thank you for the bounty that you have showered upon us.

Lord, the people who settled this land that you created were a hardy and a hard-working lot. They came here when there was nothing—and they made do. They took what was wild—and they tamed it. They looked into the future with vision—and were willing to give of themselves that it might become reality in the lives of their children. They did all in your name and with thanksgiving for your providence.

Your word, O God, proclaims that where there is no vision, the people perish. We need your vision now, Lord. We are the children of those faithful pioneers. Infuse us with their courage and conviction. Grant to us a new vision of the future for our children on this wonderful plain. Protect us from ourselves lest we become impediments to your will on earth as it is in heaven. Grant us a way forward just as you blessed the pioneers of old who surmounted obstacles we can barely imagine. We trust that you have provided all that is necessary to provide for the common good. Help us, as the people of Kansas, to apportion your bounty in a way that pleases you and serves your children and ours. Amen.

The Pledge of Allegiance was led by Rep. Goering.

## MESSAGES FROM THE GOVERNOR

**Sub. HB 2057; HB 2586, HB 2675; Sub. HB 2686; HB 2949, HB 3003, HB 3031** approved on May 13, 2002.

## MESSAGE FROM THE SENATE

The Senate accedes to the request of the House for a conference on **SB 39** and has appointed Senators Corbin, Jenkins and Lee as fourth conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **SB 472** and has appointed Senators Corbin, Jenkins and Lee as second conferees on the part of the Senate.

## INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **H. Sub. for SB 208; HB 2665, HB 2145; Sub. HB 2653; H. Sub. for SB 152; SB 664, HB 3041.**

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 208**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 208, as follows:

On page 1, in line 15, by striking "or knowingly"; in line 16, by striking "aiding any other person to use any such substance";

On page 2, by striking all in lines 6 through 43;

By striking all on pages 3 through 5;

On page 6, by striking all in lines 1 through 33 and inserting the following:

"Sec. 2. K.S.A. 8-1567, as amended by section 1 of 2002 Senate Bill No. 433, is hereby amended to read as follows: 8-1567. (a) No person shall operate or attempt to operate any vehicle within this state while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .08 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within two hours of the time of operating or attempting to operate a vehicle, is .08 or more;

(3) under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) No person shall operate or attempt to operate any vehicle within this state if the person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.

(c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(d) Upon a first conviction of a violation of this section, a person shall be guilty of a class B, nonperson misdemeanor and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$500 nor more than \$1,000. The person convicted must serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.

(e) On a second conviction of a violation of this section, a person shall be guilty of a class A, nonperson misdemeanor and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$1,500. The person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. 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. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments thereto.

(f) On the third conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's impris-

onment and fined not less than \$1,500 nor more than \$2,500. 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 court may also require as a condition of parole that such person enter into and complete a treatment program for alcohol and drug abuse as provided by K.S.A. 8-1008, and amendments thereto. 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.

(g) On the fourth or subsequent conviction of a violation of this section, a person shall be guilty of a nonperson felony and sentenced to not less than 90 days nor more than one year's imprisonment and fined \$2,500. 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. At the time of the filing of the judgment form or journal entry as required by K.S.A. 21-4620 or 22-3426, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the secretary of corrections within three business days of receipt of the judgment form or journal entry from the court and notify the secretary of corrections when the term of imprisonment expires and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the secretary. After the term of imprisonment imposed by the court, the person shall be placed in the custody of the secretary of corrections for 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 inpatient or outpatient program for alcohol and drug abuse, including, but not limited to, an approved aftercare plan or mental health counseling, as determined by the secretary and satisfy conditions imposed by the Kansas parole board as provided by K.S.A. 22-3717, and amendments thereto. 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.

(h) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had a child under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. During the service of the one month enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(i) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(j) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(k) The court shall report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(l) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) "Conviction" includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(2) "conviction" includes being convicted of a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(3) any convictions occurring during a person's lifetime shall be taken into account when determining the sentence to be imposed for a first, second, third, fourth or subsequent offender;

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(5) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.

(m) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(n) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof, but the minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this act for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation. In addition, any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(o) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq.* or 22-2906 *et seq.*, and amendments thereto, shall not constitute plea bargaining.

(p) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county, but shall not be required to, may elect one or two of the three prior to submission of the case to the fact finder.

(q) Upon a fourth or subsequent conviction, the judge of any court in which any person is convicted of violating this section, may revoke the person's license plate or temporary registration certificate of the motor vehicle driven during the violation of this section for a period of one year. Upon revoking any license plate or temporary registration certificate pursuant to this subsection, the court shall require that such license plate or temporary registration certificate be surrendered to the court.

(r) For the purpose of this section: (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(2) "Imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such en-

vironment has been approved by the board of county commissioners or the governing body of a city.

(3) “Drug” includes toxic vapors as such term is defined in section 1, and amendments thereto.

(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 6, in line 34, by striking “38-1567” and inserting “8-1567, as amended by section 1 of 2002 Senate Bill No. 433.”;

On page 1, in the title, in line 10, after “8-1567” by inserting “, as amended by section 1 of 2002 Senate Bill No. 433.”;

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

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

JOHN VRATIL  
EDWARD W. PUGH  
GRETA GOODWIN  
*Conferees on part of Senate*

On motion of Rep. O'Neal, the conference committee report on **H. Sub. for SB 208** was adopted.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Wimm.

Nays: None.

Present but not voting: None.

Absent or not voting: Henderson, Neufeld, O'Brien.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2337**, 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 2, by striking all in lines 41, 42 and 43 and inserting:

“(4) The power conferred by this subsection shall be construed liberally.”;

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

BARBARA P. ALLEN  
KAY O'CONNOR  
MARK GILSTRAP  
*Conferees on part of Senate*

GERRY RAY  
LARRY CAMPBELL  
*Conferees on part of House*

On motion of Rep. Campbell to adopt the conference committee report on **HB 2337**, Rep. Reardon offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion prevailed.

Speaker pro tem Aurand thereupon appointed Reps. Ray, Campbell and Reardon as third conferees on the part of the House.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2665**, 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 6, after line 32, by inserting the following:

“Sec. 3. K.S.A. 2001 Supp. 65-468 is hereby amended to read as follows: 65-468. As used in K.S.A. 65-468 to 65-474, inclusive, and amendments thereto:

(a) “Health care provider” means any person licensed or otherwise authorized by law to provide health care services in this state or a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by law to form such corporation and who are health care providers as defined by this subsection, or an officer, employee or agent thereof, acting in the course and scope of employment or agency.

(b) “Member” means any hospital, emergency medical service, local health department, home health agency, adult care home, medical clinic, mental health center or clinic or nonemergency transportation system.

(c) “Mid-level practitioner” means a physician’s assistant or advanced registered nurse practitioner who has entered into a written protocol with a rural health network physician.

(d) “Physician” means a person licensed to practice medicine and surgery.

(e) “Rural health network” means an alliance of members including at least one critical access hospital and at least one other hospital which has developed a comprehensive plan submitted to and approved by the secretary of health and environment regarding patient referral and transfer; the provision of emergency and nonemergency transportation among members; the development of a network-wide emergency services plan; and the development of a plan for sharing patient information and services between hospital members concerning medical staff credentialing, risk management, quality assurance and peer review.

(f) “Critical access hospital” means a member of a rural health network which makes available twenty-four hour emergency care services; provides not more than 15 acute care inpatient beds ~~for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity, on request, may waive the ninety-six hour restriction on a case-by-case basis, provides inpatient extended care services (if there is in effect or in the case of a facility with an approved swing-bed agreement) so long as the a combined total of extended care and acute care beds that does not exceed 25 beds (provided that the number of beds used at any time for acute care inpatient services does not exceed 15 beds); provides acute inpatient care for a period that does not exceed, on an annual average basis, 96 hours per patient; and provides nursing services under the direction of a licensed professional nurse and continuous licensed professional nursing services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients unless an exemption is granted by the licensing agency pursuant to rules and regulations. The critical access hospital may provide~~

any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist and radiological technologist on a part-time, off-site basis under written agreements or arrangements with one or more providers or suppliers recognized under medicare. The critical access hospital may provide inpatient services by a physician's assistant, nurse practitioner or a clinical nurse specialist subject to the oversight of a physician who need not be present in the facility.

(g) "Hospital" means a hospital other than a critical access hospital which has entered into a written agreement with at least one critical access hospital to form a rural health network and to provide medical or administrative supporting services within the limit of the hospital's capabilities.

Sec. 4. On April 1, 2003, K.S.A. 65-5402 is hereby amended to read as follows: 65-5402. As used in K.S.A. 65-5401 to 65-5417, inclusive, *and sections 13 to 15, inclusive, and amendments thereto*:

(a) "Board" means the state board of healing arts.

~~(b) "Occupational therapy" is a health care profession whose practitioners, other than occupational therapy practitioners working with the educationally handicapped in a school system, are employed under the supervision of a physician and whose practitioners provide therapy, rehabilitation, diagnostic evaluation, care and education of individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities or the aging process in order to maximize independence, prevent disability and maintain health. Specific occupational therapy services include:~~

~~(1) Administering and interpreting tests necessary for effective treatment planning;~~

~~(2) developing self-care and daily living skills such as feeding, dressing, hygiene and homemaking;~~

~~(3) designing, fabricating, applying or training, or any combination thereof, in the use of selected orthotics, upper extremity prosthetics or adaptive equipment;~~

~~(4) developing sensory integrative skills and functioning;~~

~~(5) using therapeutic activity and exercise to enhance functional or motor performance, or both;~~

~~(6) developing prevocational/vocational work capacities and play/leisure skills, and~~

~~(7) adapting environment for the disabled.~~

(b) "Practice of occupational therapy" means the therapeutic use of purposeful and meaningful occupations (goal-directed activities) to evaluate and treat, pursuant to the referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist, individuals who have a disease or disorder, impairment, activity limitation or participation restriction that interferes with their ability to function independently in daily life roles and to promote health and wellness. Occupational therapy intervention may include:

(1) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological cognitive processes;

(2) adaptation of tasks, process, or the environment or the teaching of compensatory techniques in order to enhance performance;

(3) disability prevention methods and techniques that facilitate the development or safe application of performance skills; and

(4) health promotion strategies and practices that enhance performance abilities.

(c) "Occupational therapy services" include, but are not limited to:

(1) Evaluating, developing, improving, sustaining, or restoring skills in activities of daily living (ADL), work or productive activities, including instrumental activities of daily living (IADL) and play and leisure activities;

(2) evaluating, developing, remediating, or restoring sensorimotor, cognitive or psychosocial components of performance;

(3) designing, fabricating, applying, or training in the use of assistive technology or orthotic devices and training in the use of prosthetic devices;

(4) adapting environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;

(5) applying physical agent modalities as an adjunct to or in preparation for engagement in occupations;

(6) *evaluating and providing intervention in collaboration with the client, family, caregiver or others;*

(7) *educating the client, family, caregiver or others in carrying out appropriate non-skilled interventions; and*

(8) *consulting with groups, programs, organizations or communities to provide population-based services.*

(~~e~~) (d) "Occupational therapist" means a person ~~registered~~ *licensed* to practice occupational therapy as defined in this act.

(~~e~~) (e) "Occupational therapy assistant" means a person ~~registered~~ *licensed* to assist in the practice of occupational therapy under the supervision ~~or with the consultation~~ of an occupational therapist.

(~~e~~) (f) "Person" means any individual, partnership, unincorporated organization or corporation.

(~~e~~) (g) "Physician" means a person licensed to practice medicine and surgery.

(h) "*Occupational therapy aide,*" "*occupational therapy tech*" or "*occupational therapy paraprofessional*" means a person who provides supportive services to occupational therapists and occupational therapy assistants in accordance with section 14 and amendments thereto.

Sec. 5. On April 1, 2003, K.S.A. 65-5405 is hereby amended to read as follows: 65-5405. The board shall pass upon the qualifications of all applicants for examination and ~~registration licensure, provide for and conduct all examinations;~~ determine the applicants who successfully pass the examination, duly ~~register~~ *license* such applicants and adopt rules and regulations as may be necessary to administer the provisions of this act. The board shall keep a record of all proceedings under this act and a roster of all individuals ~~registered~~ *licensed* under this act. Only an individual may be ~~registered~~ *licensed* under this act.

Sec. 6. On April 1, 2003, K.S.A. 65-5406 is hereby amended to read as follows: 65-5406. (a) An applicant applying for ~~registration licensure~~ as an occupational therapist or as an occupational therapy assistant shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) Education: The applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy recognized by the board.

(2) Experience: The applicant shall submit to the board evidence of having successfully completed a period of supervised field work at a minimum recognized by the board.

(3) Examination: The applicant shall pass an examination as provided for in K.S.A. 65-5407 and amendments thereto.

(4) Fees: The applicants shall pay to the board all applicable fees established under K.S.A. 65-5409 and amendments thereto.

(b) The board shall adopt rules and regulations establishing the criteria which an educational program in occupational therapy shall satisfy to be recognized by the board under paragraph (1) of subsection (a). The board may send a questionnaire developed by the board to any school or other entity conducting an educational program in occupational therapy for which the board does not have sufficient information to determine whether the program should be recognized by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the program to be considered for recognition. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about an educational program in occupational therapy. In entering such contracts the authority to recognize an educational program in occupational therapy shall remain solely with the board.

Sec. 7. On April 1, 2003, K.S.A. 65-5407 is hereby amended to read as follows: 65-5407. (~~a~~) Each applicant for ~~registration licensure~~ under this act shall be examined by written examination required by the board to test the applicant's knowledge of the basic and clinical sciences relating to occupational therapy, and occupational therapy theory and practice, including the applicant's professional skills and judgment in the utilization of occupational therapy techniques and methods, and such other subjects as the board may deem useful to



determine the applicant's fitness to practice. The board shall approve an examination for occupational therapy assistants and establish standards for acceptable performance.

~~(b) Applicants for registration shall be examined at a time and place and under such supervision as the board may determine. Examinations shall be given at least twice each year at such places within this state as the board may determine and the board shall give reasonable public notice of such examinations at least 60 days prior to their administration.~~

~~(c) Applicants may obtain their examination scores.~~

Sec. 8. On April 1, 2003, K.S.A. 2001 Supp. 65-5408 is hereby amended to read as follows: 65-5408. (a) ~~The board shall waive the examination, education and experience requirements and grant registration to any person who applies for registration on or before July 1, 1987, who pays the application fee and who was certified prior to the effective date of this act as an occupational therapist registered (O.T.R.) or a certified occupational therapy assistant (C.O.T.A.) by the American occupational therapy association (A.O.T.A.) or who has been employed as an occupational therapist for the purpose of providing occupational therapy for at least two years within the three-year period immediately prior to the effective date of this act.~~ (b) The board may waive the examination, education or experience requirements and grant ~~registration~~ *licensure* to any applicant who ~~shall present~~ *presents* proof of current ~~licensure or registration~~ as an occupational therapist or occupational therapy assistant in another state, the District of Columbia or territory of the United States which requires standards for ~~licensure or registration~~ determined by the board to be equivalent to or exceed the requirements for ~~registration~~ *licensure* under this act.

~~(c)~~ (b) At the time of making an application under this section, the applicant shall pay to the board the application fee as required under K.S.A. 65-5409 and amendments thereto.

~~(d)~~ (c) The board may issue a temporary ~~registration~~ *license* to an applicant for ~~registration~~ *licensure* as an occupational therapist or as an occupational therapy assistant who applies for temporary ~~registration~~ *licensure* on a form provided by the board, who meets the requirements for ~~registration~~ *licensure* or who meets all the requirements for ~~registration~~ *licensure* except examination and who pays to the board the temporary ~~registration~~ *license* fee as required under K.S.A. 65-5409 and amendments thereto. Such temporary ~~registration~~ *license* shall expire one year from the date of issue or on the date that the board approves the application for ~~registration~~ *licensure*, whichever occurs first. No more than one such temporary ~~registration~~ *license* shall be permitted to any one person.

Sec. 9. On April 1, 2003, K.S.A. 2001 Supp. 65-5409 is hereby amended to read as follows: 65-5409. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than.....	\$80
Temporary registration fee, not more than.....	<del>40</del>
Registration renewal fee, not more than.....	<del>80</del>
Registration late renewal fee, not more than.....	<del>80</del>
Registration reinstatement fee, not more than.....	<del>80</del>
Certified copy of registration, not more than.....	<del>40</del>
Written verification of registration, not more than.....	<del>25</del>
Temporary license fee, not more than.....	40
License renewal fee, not more than.....	80
License late renewal fee, not more than.....	80
License reinstatement fee, not more than.....	80
Certified copy of license, not more than.....	40
Written verification of license, not more than.....	25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the occupational therapy practice act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the occupational therapy practice act be paid directly to the examination service by the person taking the examination.

Sec. 10. On April 1, 2003, K.S.A. 65-5410 is hereby amended to read as follows: 65-5410. (a) The board may deny, refuse to renew, suspend or revoke a ~~registration~~ *license*

where the ~~registrant~~ licensee or applicant for ~~registration~~ licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

- (1) Obtaining a ~~registration~~ license by means of fraud, misrepresentation or concealment of material facts;
- (2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;
- (3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant;
- (4) violating any lawful order or rule and regulation of the board; and
- (5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension or revocation of a ~~registration~~ license may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of ~~registration~~ a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement.

Sec. 11. On April 1, 2003, K.S.A. 65-5412 is hereby amended to read as follows: 65-5412. (a) ~~Registrations~~ Licenses issued under this act shall be effective for a period of one year and shall expire at the end of such period of time unless renewed in the manner prescribed by the board, upon the payment of the ~~registration~~ license renewal fee established under K.S.A. 65-5409 and amendments thereto. The board may establish additional requirements for licensure or registration renewal which provide evidence of continued competency. The board may provide for the late licensure or renewal of a license or registration upon the payment of a late fee established under K.S.A. 65-5409 and amendments thereto, but no such late renewal of a license or registration may be granted more than five years after its expiration.

(b) A person whose license or registration is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the license or registration was suspended. If a license or registration revoked on disciplinary grounds is reinstated, the licensee or registrant, as a condition of reinstatement, shall pay the renewal fee and any late fee that may be applicable.

Sec. 12. On April 1, 2003, K.S.A. 65-5414 is hereby amended to read as follows: 65-5414. (a) ~~On and after July 1, 1987,~~ It shall be unlawful for any person who is not ~~registered~~ licensed under this act as an occupational therapist or an occupational therapy assistant or whose ~~registration~~ license has been suspended or revoked to use, in connection with such person's name or place of business, the words "occupational therapist," "~~registered~~ licensed occupational therapist," "occupational therapist ~~registered~~ licensed," "occupational therapy assistant," "~~registered~~ licensed occupational therapy assistant," or the letters, "O.T.," "~~R.O.T.~~ L.O.T.," "~~O.T.R.~~ O.T.L.," "O.T.A." or "~~R.O.T.A.~~ L.O.T.A." or any other words, letters, abbreviations or insignia indicating or implying that such person is an occupational therapist or an occupational therapy assistant or who in any way, orally, in writing, in print or by sign, directly or by implication, represents oneself as an occupational therapist or an occupational therapy assistant.

(b) Any violation of this section shall constitute a class C misdemeanor.

New Sec. 13. (a) Nothing in the occupational therapy practice act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and licensed, registered, credentialed or certified by appropriate agencies of the state of Kansas.

- (b) The practice of occupational therapy shall not be construed to include the following:
- (1) Persons rendering assistance in the case of an emergency;
  - (2) members of any church practicing their religious tenets;
  - (3) persons whose services are performed pursuant to the delegation of and under the supervision of an occupational therapist who is licensed under this act;
  - (4) any person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency thereof, if such person practices

occupational therapy solely under the direction or control of the organization by which such person is employed;

(5) licensees under the healing arts act when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to a delegation authorized under subsection (g) of K.S.A. 65-2872 and amendments thereto;

(6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;

(7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under subsection (m) of K.S.A. 65-1124 and amendments thereto;

(8) health care providers who have been formally trained and are practicing in accordance with the training or have received specific training in one or more functions included in the occupational therapy practice act pursuant to established educational protocols, or both;

(9) any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if the person is designated by the title which clearly indicates such person's status as a student or trainee;

(10) any person fulfilling the supervised fieldwork experience requirements as part of the experience necessary to meet the requirement of the occupational therapy practice act;

(11) self-care by a patient or gratuitous care by a friend or family member who does not represent or hold oneself out to the public to be an occupational therapist or an occupational therapy assistant;

(12) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(13) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(14) physical therapists practicing their profession when registered and practicing in accordance with K.S.A. 65-2901 *et seq.* and amendments thereto;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) athletic trainers practicing their profession when registered and practicing in accordance with the athletic trainers registration act;

(17) manufacturers of prosthetic devices;

(18) any person performing occupational therapy services, if these services are performed for no more than 45 days in a calendar year in association with an occupational therapist licensed under the occupational therapy practice act so long as (A) the person is registered or licensed under the laws of another state which has licensure requirements at least as stringent as the licensure requirements of this act, or (B) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA) established by the national board for certification in occupational therapy (NBCOT).

(c) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed occupational therapy must be performed by or pursuant to the delegation of a licensed occupational therapist or other health care provider.

(d) Education related therapy services provided by an occupational therapist to school systems or consultation regarding prevention, ergonomics and wellness within the occupational therapy scope of practice shall not require a referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist. However, when in the course of providing such services an occupational therapist reasonably believes that an individual may have an underlying injury, illness, disease, disorder or impairment, the occupational therapist shall refer the individual to a physician, a licensed podiatrist, a licensed dentist or a licensed optometrist, as appropriate.

(e) Nothing in the occupational therapy practice act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state

board of healing arts shall be construed to confer authority upon occupational therapists to engage in any activity not conferred by the occupational therapy practice act.

(f) This section shall be part of and supplemental to the occupational therapy practice act.

(g) The provisions of this section shall take effect on and after April 1, 2003.

New Sec. 14. (a) An occupational therapy aide, occupational therapy tech or occupational therapy paraprofessional shall function under the guidance and responsibility of the licensed occupational therapist and may be supervised by the occupational therapist or an occupational therapy assistant for specifically selected routine tasks for which the occupational therapy aide, occupational therapy tech or occupational therapy paraprofessional has been trained and has demonstrated competence. The occupational therapy aide, occupational therapy tech or occupational therapy paraprofessional shall comply with supervision requirements developed by the board by rules and regulations which are consistent with prevailing professional standards.

(b) This section shall be part of and supplemental to the occupational therapy practice act.

(c) The provisions of this section shall take effect on and after April 1, 2003.

New Sec. 15. (a) Any person holding a valid registration as an occupational therapist immediately prior to the effective date of this act which has been issued by the state board of healing arts shall be deemed to be a licensed occupational therapist and shall be subject to the provisions of article 54 of chapter 65 of the Kansas Statutes Annotated.

(b) Any person holding a valid registration as an occupational therapy assistant immediately prior to the effective date of this act which has been issued by the state board of healing arts shall be deemed to be a licensed occupational therapy assistant and shall be subject to the provisions of article 54 of chapter 65 of the Kansas Statutes Annotated.

(c) This section shall be part of and supplemental to the occupational therapy practice act.

(d) The provisions of this section shall take effect on and after April 1, 2003.

Sec. 16. On April 1, 2003, K.S.A. 2001 Supp. 65-1501 is hereby amended to read as follows: 65-1501. (a) The practice of optometry means:

(1) The examination of the human eye and its adnexae and the employment of objective or subjective means or methods (including the administering, prescribing or dispensing, of topical pharmaceutical drugs) for the purpose of diagnosing the refractive, muscular, or pathological condition thereof;

(2) the prescribing or adapting of lenses (including any ophthalmic lenses which are classified as drugs by any law of the United States or of this state), prisms, low vision rehabilitation services, orthoptic exercises and visual training therapy for the relief of any insufficiencies or abnormal conditions of the human eye and its adnexae; and

(3) except as otherwise limited by this section, the prescribing, administering or dispensing of topical pharmaceutical drugs and oral drugs for the examination, diagnosis and treatment of any insufficiencies or abnormal conditions of the human eye and its adnexae.

(b) The practice of optometry shall not include: (1) The management and treatment of glaucoma, except as provided in subsection (d); (2) the performance of surgery, including the use of lasers for surgical purposes, except that therapeutic licensees may remove superficial foreign bodies from the cornea and the conjunctiva; (3) the use of topical pharmaceutical drugs by a person licensed to practice optometry unless such person successfully meets the requirements of a diagnostic licensee or a therapeutic licensee; and (4) the prescribing, administering and dispensing of oral drugs for ocular conditions by a person licensed to practice optometry unless such person successfully meets the requirements of a therapeutic licensee, except that such therapeutic licensee may prescribe or administer oral steroids or oral antiglaucoma drugs for ocular conditions following consultation with an ophthalmologist, which consultation shall be noted in writing in the patient's file. No optometrist may prescribe or administer oral drugs to persons less than six years of age.

(c) A therapeutic licensee certified to treat adult open-angle glaucoma as provided herein shall be held to a standard of care in the use of such agents in diagnosis and treatment commensurate to that of a person licensed to practice medicine and surgery, who exercises

that degree of skill and proficiency commonly exercised by an ordinary, skillful, careful and prudent person licensed to practice medicine and surgery.

(d) An optometrist may prescribe, administer and dispense topical pharmaceutical drugs and oral drugs for the treatment of adult open-angle glaucoma only following glaucoma licensure as provided in subsection (l) of K.S.A. 65-1501a and amendments thereto. After the initial diagnosis of adult open-angle glaucoma, by an optometrist during the co-management period described in subsection (s) of K.S.A. 65-1501a and amendments thereto, the patient shall be notified that the diagnosis must be confirmed by an ophthalmologist and that any subsequent treatment requires a written co-management plan with an ophthalmologist of the patient's choice.

(e) Under the direction and supervision of a therapeutic licensee, a licensed professional nurse, licensed practical nurse, registered physical therapist and ~~registered~~ licensed occupational therapist may assist in the provision of low vision rehabilitation services in addition to such other services which such licensed professional nurse, licensed practical nurse, registered physical therapist and ~~registered~~ licensed occupational therapist is authorized by law to provide under subsection (d) of K.S.A. 65-1113, subsection (h) of K.S.A. 65-1124, subsection (b) of K.S.A. 65-2901 and subsection (b) of K.S.A. 65-5402, and amendments thereto.

Sec. 17. On April 1, 2003, K.S.A. 2001 Supp. 65-2891 is hereby amended to read as follows: 65-2891. (a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any health care provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such health care provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any health care provider may in good faith render emergency care or assistance during an emergency which occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by the patient's family or by guardian assumes responsibility for such patient's professional care. The health care provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

(d) Any provision herein contained notwithstanding, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section the term "health care provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, licensed podiatrist, licensed pharmacist, registered physical therapist, and any physician's assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physicians' assistants of the American board of medical examiners, any registered athletic trainer, any ~~registered~~ licensed occupational therapist, any licensed respiratory therapist, any person who holds a valid attendant's certificate under K.S.A. 65-6129, and amendments thereto, any person who holds a valid certificate for the successful completion of a course in first aid offered or approved by the American red cross, by the American heart association, by the mining enforcement and safety administration of the bureau of mines of the department of interior, by the national safety council or by any instructor-coordinator, as defined in K.S.A. 65-6112, and amendments thereto, and any person engaged in a postgraduate training program approved by the state board of healing arts.

Sec. 18. On April 1, 2003, K.S.A. 2001 Supp. 65-4915 is hereby amended to read as follows: 65-4915. (a) As used in this section:

(1) "Health care provider" means: (A) Those persons and entities defined as a health care provider under K.S.A. 40-3401 and amendments thereto; and (B) a dentist licensed by the Kansas dental board, a dental hygienist licensed by the Kansas dental board, a professional nurse licensed by the board of nursing, a practical nurse licensed by the board of nursing, a mental health technician licensed by the board of nursing, a physical therapist assistant certified by the state board of healing arts, an occupational therapist ~~registered~~ *licensed* by the state board of healing arts, an occupational therapy assistant ~~registered~~ *licensed* by the state board of healing arts, a respiratory therapist licensed by the state board of healing arts, a physician assistant licensed by the state board of healing arts and attendants and ambulance services certified by the emergency medical services board.

(2) "Health care provider group" means:

(A) A state or local association of health care providers or one or more committees thereof;

(B) the board of governors created under K.S.A. 40-3403 and amendments thereto;

(C) an organization of health care providers formed pursuant to state or federal law and authorized to evaluate medical and health care services;

(D) a review committee operating pursuant to K.S.A. ~~65-2840b through 65-2840d~~, 65-2840c and amendments thereto;

(E) an organized medical staff of a licensed medical care facility as defined by K.S.A. 65-425 and amendments thereto, an organized medical staff of a private psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto or an organized medical staff of a state psychiatric hospital or state institution for the mentally retarded, as follows: Larned state hospital, Osawatomie state hospital, Rainbow mental health facility, Kansas neurological institute and Parsons state hospital and training center;

(F) a health care provider;

(G) a professional society of health care providers or one or more committees thereof;

(H) a Kansas corporation whose stockholders or members are health care providers or an association of health care providers, which corporation evaluates medical and health care services; or

(I) an insurance company, health maintenance organization or administrator of a health benefits plan which engages in any of the functions defined as peer review under this section.

(3) "Peer review" means any of the following functions:

(A) Evaluate and improve the quality of health care services rendered by health care providers;

(B) determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care;

(C) determine that the cost of health care rendered was considered reasonable by the providers of professional health services in this area;

(D) evaluate the qualifications, competence and performance of the providers of health care or to act upon matters relating to the discipline of any individual provider of health care;

(E) reduce morbidity or mortality;

(F) establish and enforce guidelines designed to keep within reasonable bounds the cost of health care;

(G) conduct of research;

(H) determine if a hospital's facilities are being properly utilized;

(I) supervise, discipline, admit, determine privileges or control members of a hospital's medical staff;

(J) review the professional qualifications or activities of health care providers;

(K) evaluate the quantity, quality and timeliness of health care services rendered to patients in the facility;

(L) evaluate, review or improve methods, procedures or treatments being utilized by the medical care facility or by health care providers in a facility rendering health care.

(4) "Peer review officer or committee" means:

(A) An individual employed, designated or appointed by, or a committee of or employed, designated or appointed by, a health care provider group and authorized to perform peer review; or

(B) a health care provider monitoring the delivery of health care at correctional institutions under the jurisdiction of the secretary of corrections.

(b) Except as provided by K.S.A. 60-437 and amendments thereto and by subsections (c) and (d), the reports, statements, memoranda, proceedings, findings and other records submitted to or generated by peer review committees or officers shall be privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible in evidence in any judicial or administrative proceeding. Information contained in such records shall not be discoverable or admissible at trial in the form of testimony by an individual who participated in the peer review process. The peer review officer or committee creating or initially receiving the record is the holder of the privilege established by this section. This privilege may be claimed by the legal entity creating the peer review committee or officer, or by the commissioner of insurance for any records or proceedings of the board of governors.

(c) Subsection (b) shall not apply to proceedings in which a health care provider contests the revocation, denial, restriction or termination of staff privileges or the license, registration, certification or other authorization to practice of the health care provider. A licensing agency in conducting a disciplinary proceeding in which admission of any peer review committee report, record or testimony is proposed shall hold the hearing in closed session when any such report, record or testimony is disclosed. Unless otherwise provided by law, a licensing agency conducting a disciplinary proceeding may close only that portion of the hearing in which disclosure of a report or record privileged under this section is proposed. In closing a portion of a hearing as provided by this section, the presiding officer may exclude any person from the hearing location except the licensee, the licensee's attorney, the agency's attorney, the witness, the court reporter and appropriate staff support for either counsel. The licensing agency shall make the portions of the agency record in which such report or record is disclosed subject to a protective order prohibiting further disclosure of such report or record. Such report or record shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity. No person in attendance at a closed portion of a disciplinary proceeding shall at a subsequent civil, criminal or administrative hearing, be required to testify regarding the existence or content of a report or record privileged under this section which was disclosed in a closed portion of a hearing, nor shall such testimony be admitted into evidence in any subsequent civil, criminal or administrative hearing. A licensing agency conducting a disciplinary proceeding may review peer review committee records, testimony or reports but must prove its findings with independently obtained testimony or records which shall be presented as part of the disciplinary proceeding in open meeting of the licensing agency. Offering such testimony or records in an open public hearing shall not be deemed a waiver of the peer review privilege relating to any peer review committee testimony, records or report.

(d) Nothing in this section shall limit the authority, which may otherwise be provided by law, of the commissioner of insurance, the state board of healing arts or other health care provider licensing or disciplinary boards of this state to require a peer review committee or officer to report to it any disciplinary action or recommendation of such committee or officer; to transfer to it records of such committee's or officer's proceedings or actions to restrict or revoke the license, registration, certification or other authorization to practice of a health care provider; or to terminate the liability of the fund for all claims against a specific health care provider for damages for death or personal injury pursuant to subsection (i) of K.S.A. 40-3403 and amendments thereto. Reports and records so furnished shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in evidence in any judicial or administrative proceeding other than a disciplinary proceeding by the state board of healing arts or other health care provider licensing or disciplinary boards of this state.

(e) A peer review committee or officer may report to and discuss its activities, information and findings to other peer review committees or officers or to a board of directors or an administrative officer of a health care provider without waiver of the privilege provided by subsection (b) and the records of all such committees or officers relating to such report shall be privileged as provided by subsection (b).

(f) Nothing in this section shall be construed to prevent an insured from obtaining information pertaining to payment of benefits under a contract with an insurance company, a health maintenance organization or an administrator of a health benefits plan.

Sec. 19. On April 1, 2003, K.S.A. 2001 Supp. 65-4921 is hereby amended to read as follows: 65-4921. As used in K.S.A. 65-4921 through 65-4930, and amendments thereto:

(a) "Appropriate licensing agency" means the agency that issued the license to the individual or health care provider who is the subject of a report under this act.

(b) "Department" means the department of health and environment.

(c) "Health care provider" means: (1) Those persons and entities defined as a health care provider under K.S.A. 40-3401 and amendments thereto; and (2) a dentist licensed by the Kansas dental board, a dental hygienist licensed by the Kansas dental board, a professional nurse licensed by the board of nursing, a practical nurse licensed by the board of nursing, a mental health technician licensed by the board of nursing, a physical therapist assistant certified by the state board of healing arts, an occupational therapist ~~registered~~ *licensed* by the state board of healing arts, an occupational therapy assistant ~~registered~~ *licensed* by the state board of healing arts and a respiratory therapist licensed by the state board of healing arts.

(d) "License," "licensee" and "licensing" include comparable terms which relate to regulation similar to licensure, such as registration.

(e) "Medical care facility" means: (1) A medical care facility licensed under K.S.A. 65-425 et seq. and amendments thereto; (2) a private psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto; and (3) state psychiatric hospitals and state institutions for the mentally retarded, as follows: Larned state hospital, Osawatomie state hospital, Rainbow mental health facility, Kansas neurological institute and Parsons state hospital and training center.

(f) "Reportable incident" means an act by a health care provider which: (1) Is or may be below the applicable standard of care and has a reasonable probability of causing injury to a patient; or (2) may be grounds for disciplinary action by the appropriate licensing agency.

(g) "Risk manager" means the individual designated by a medical care facility to administer its internal risk management program and to receive reports of reportable incidents within the facility.

(h) "Secretary" means the secretary of health and environment.

New Sec. 20. (a) Sections 20 to 37, inclusive, and amendments thereto shall be known and may be cited as the naturopathic doctor registration act.

(b) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 21. (a) As used in sections 20 to 37, inclusive, and amendments thereto:

(1) "Naturopathic doctor" means a doctor of naturopathic medicine who is authorized and registered pursuant to this act.

(2) "Naturopathic medicine," or "naturopathy" means a system of health care practiced by naturopathic doctors for the prevention, diagnosis and treatment of human health conditions, injuries and diseases, that uses education, natural medicines and therapies to support and stimulate the individual's intrinsic self-healing processes, and includes prescribing, recommending or administering: (A) Food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanicals, homeopathic preparations, nonprescription drugs, plant substances that are not designated as prescription drugs or controlled substances, topical drugs as defined in subsection (a)(9) of this section, and amendments thereto; (B) health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, barrier contraceptive devices; (C) substances on the naturopathic formulary which are authorized for intramuscular or intravenous administration pursuant to a written protocol entered into with a physician who has entered into a written protocol with a naturopathic doctor registered under this act; (D) noninvasive physical examinations, venipuncture to obtain blood for clinical laboratory tests and oroficial examinations, excluding endoscopies; (E) minor office procedures; and (F) naturopathic acupuncture. A naturopathic doctor may not perform surgery, obstetrics, administer ionizing radiation, or prescribe, dispense or administer any controlled substances as defined in K.S.A. 65-4101, and amendments thereto, or any prescription-only drugs except those listed on the naturopathic formulary adopted by the board pursuant to this act.



(3) "Board" means the state board of healing arts.

(4) "Approved naturopathic medical college" means a college and program granting the degree of doctor of naturopathy or naturopathic medicine that has been approved by the board under this act and which college and program requires at a minimum a four-year, full-time resident program of academic and clinical study.

(5) "Homeopathic preparations" means substances and drugs prepared according to the official homeopathic pharmacopoeia recognized by the United States food and drug administration.

(6) "Naturopathic acupuncture" means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the palpation of specific points on the body and with or without the application of electric current or heat to the needles or skin or both to treat human disease and impairment and to relieve pain.

(7) "Minor office procedures" means care incidental to superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues, except eyes, and not involving blood vessels, tendons, ligaments or nerves. "Minor office procedures" includes use of antiseptics, but shall not include the suturing, repairing, alteration or removal of tissue or the use of general or spinal anesthesia. Minor office procedures does not include anesthetics or surgery.

(8) "Naturopathic physical applications" means the therapeutic use by naturopathic doctors of the actions or devices of electrical muscle stimulation, galvanic, diathermy, ultrasound, ultraviolet light, constitutional hydrotherapy, naturopathic musculoskeletal technique and therapeutic exercise.

(9) "Topical drugs" means topical analgesics, antiseptics, scabicides, antifungals and antibacterials but does not include prescription only drugs.

(10) "Physician" means a person licensed to practice medicine and surgery.

(11) "Written protocol" means a formal written agreement between a naturopathic doctor registered under this act and a person licensed to practice medicine and surgery. Any licensee of the board entering into a written protocol with a registered naturopathic doctor shall notify the board in writing of such relationship by providing such information as the board may require.

(b) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 22. (a) The board, as hereinafter provided, shall administer the provisions of this act.

(b) The board shall judge the qualifications of all applicants for examination and registration, determine the applicants who successfully pass the examination, duly register such applicants and adopt rules and regulations as may be necessary to administer the provisions of this act.

(c) The board shall issue a registration as a naturopathic doctor to an individual who prior to the effective date of this act (1) graduated from a school of naturopathy that required four years of attendance and was at the time of such individual's graduation accredited or a candidate for accreditation by the board approved accrediting body, (2) passed an examination approved by the board covering appropriate naturopathic subjects including basic and clinical sciences and (3) has not committed an act which would subject such person to having a registration suspended or revoked under section 27, and amendments thereto.

(d) The board shall keep a record of all proceedings under this act and a roster of all individuals registered under this act. Only an individual may be registered under this act.

(e) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 23. (a) An applicant applying for registration as a naturopathic doctor shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

(1) Education: The applicant shall present evidence satisfactory to the board of having successfully completed an educational program in naturopathy from an approved naturopathic medical college.

(2) Examination: The applicant shall pass an examination as provided for in section 24 and amendments thereto.

(3) Fees: The applicants shall pay to the board all applicable fees established under section 26 and amendments thereto.

(b) The board shall adopt rules and regulations establishing the criteria for an educational program in naturopathy to obtain successful recognition by the board under paragraph (1) of subsection (a). The board may send a questionnaire developed by the board to any school or other entity conducting an educational program in naturopathy for which the board does not have sufficient information to determine whether the program should be recognized by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the program to be considered for recognition. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about an educational program in naturopathy. In entering such contracts the authority to recognize an educational program in naturopathy shall remain solely with the board.

(c) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 24. (a) Each applicant for registration under this act shall be examined by a written examination or examinations chosen by the board to test the applicant's knowledge of the basic and clinical sciences relating to naturopathy, and naturopathy theory and practice, including the applicant's professional skills and judgment in the utilization of naturopathic techniques and methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice naturopathy.

(b) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 25. (a) The board may waive the examination or education requirements, or both, and grant registration (1) to any applicant who presents proof of current authorization to practice naturopathy in another state, the District of Columbia or territory of the United States which requires standards for authorization to practice determined by the board to be equivalent to the requirements for registration under this act and (2) to any applicant who presents proof that on the day preceding the effective date of this act that the applicant was practicing under K.S.A. 65-2872a and amendments thereto.

(b) At the time of making an application under this section, the applicant shall pay to the board the application fee as required under section 26 and amendments thereto.

(c) The board may issue a temporary registration to an applicant for registration as a naturopathic doctor who applies for temporary registration on a form provided by the board, who meets the requirements for registration or who meets all the requirements for registration except examination and who pays to the board the temporary registration fee as required under section 26 and amendments thereto. The person who holds a temporary registration shall practice only under the supervision of a registered naturopathic doctor. Such temporary registration shall expire one year from the date of issue or on the date that the board approves the application for registration, whichever occurs first. No more than one such temporary registration shall be permitted to any one person.

(d) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 26. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

Application fee, not more than.....	\$200
Temporary registration fee, not more than.....	\$30
Registration renewal fee, not more than.....	\$150
Registration late renewal additional fee, not more than .....	\$250
Registration reinstatement fee, not more than .....	\$250
Certified copy of registration, not more than.....	\$30
Written verification of registration, not more than.....	\$25

(b) The board shall charge and collect in advance fees for any examination administered by the board under the naturopathic doctor registration act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the naturopathic doctor registration act be paid directly to the examination service by the person taking the examination.

(c) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 27. (a) The board may deny, refuse to renew, suspend or revoke a registration where the registrant or applicant for registration has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

- (1) Obtaining a registration by means of fraud, misrepresentation or concealment of material facts;
- (2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;
- (3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a naturopathic doctor;
- (4) violating any lawful order or rule and regulation of the board; and
- (5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension or revocation of a registration may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a registration, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement shall be accompanied by the registration reinstatement fee established under section 26 and amendments thereto.

(c) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 28. (a) Registrations issued under this act shall be effective for a period of one year and shall expire at the end of such period of time unless renewed in the manner prescribed by the board, upon the payment of the registration renewal fee established under section 26 and amendments thereto. The board may establish additional requirements for registration renewal which provide evidence of continued competency. The board for registration renewal shall require completion of at least 25 hours annually of continuing education approved by the board. The board may provide for the late renewal of a registration upon the payment of a late fee established under section 26 and amendments thereto, but no such late renewal of a registration may be granted more than five years after its expiration.

(b) A person whose registration is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the registration was suspended. If a registration revoked on disciplinary grounds is reinstated, the registrant, as a condition of reinstatement, shall pay the registration renewal fee and any late fee that may be applicable.

(c) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 29. (a) The board shall remit all moneys received by or for it from fees, charges or penalties 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. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person designated by the president of the board.

(b) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 30. (a) On and after January 1, 2003, and prior to July 1, 2004, it shall be unlawful for any person who is not registered under this act as a naturopathic doctor or whose registration has been suspended or revoked to hold oneself out to the public as a registered naturopathic doctor, or use the abbreviation of "N.D." or the words "naturopathic doctor," "doctor of naturopathy," "doctor of naturopathic medicine," "naturopathic medical doctor" or any other words, letters, abbreviations or insignia indicating or implying that such person is a naturopathic doctor. A violation of this subsection (a) shall constitute a class B person misdemeanor.

(b) On and after July 1, 2004, it shall be unlawful for any person who is not registered under this act as a naturopathic doctor or whose registration has been suspended or revoked to hold oneself out to the public as a registered naturopathic doctor, or use the abbreviation

of "N.D." or the words "naturopathic doctor," "doctor of naturopathy," "doctor of naturopathic medicine," "naturopath," "naturopathic medical doctor" or any other words, letters, abbreviations or insignia indicating or implying that such person is a naturopathic doctor. A violation of this subsection (b) shall constitute a class B person misdemeanor.

(c) No statute granting authority to persons licensed or registered by the state board of healing arts shall be construed to confer authority upon naturopathic doctors to engage in any activity not conferred by this act.

(d) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 31. (a) The board shall adopt a naturopathic formulary which lists the drugs and substances which are approved for intramuscular or intravenous administration by a naturopathic doctor pursuant to the order of a physician. The board shall appoint a naturopathic formulary advisory committee which shall advise the board and make recommendations on the list of substances which may be included in the naturopathic formulary. The naturopathic formulary advisory committee shall consist of a licensed pharmacist, a person knowledgeable in medicinal plant chemistry, two persons licensed to practice medicine and surgery, and two naturopathic doctors registered under this act.

(b) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 32. (a) In order to practice naturopathic acupuncture, a naturopathic doctor shall obtain a naturopathic acupuncture specialty certification from the board. The board may issue this specialty certification to a naturopathic doctor who has:

(1) Submitted an application and paid certification fee to be determined by the board;

(2) completed basic oriental medicine philosophy from a college or university approved by the board and 500 hours of supervised clinical training under a trained naturopathic acupuncturist's supervision.

(b) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 33. (a) There is established a naturopathic advisory council to advise the board in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: Three members shall be naturopathic doctors appointed by the state board of healing arts; one member shall be the president of the state board of healing arts or a person designated by the president; and one member appointed by the governor shall be from the public sector who is not engaged, directly or indirectly, in the provision of health services. Insofar as possible persons appointed to the council shall be from different geographic areas. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any. The members of the council appointed by the governor shall be appointed for terms of three years and until a successor is appointed. The members appointed by the state board of healing arts shall serve at the pleasure of the state board of healing arts. If a member is designated by the president of the state board of healing arts, the member shall serve at the pleasure of the president.

(b) Members of the council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto from the healing arts fee fund.

(c) During the 2003 regular session of the legislature the legislature shall consider establishing an alternative health care board composed of representatives as may be designated from existing health care regulatory agencies, alternative health care providers and members of the general public for purposes of advising the legislature on matters relating to alternative health care, administering the naturopathic doctor registration act and performing such other duties as may be established by law.

(d) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 34. (a) When it appears to the board that any person is violating any of the provisions of this act, the board may bring an action in the name of the state of Kansas in a court of competent jurisdiction for an injunction against such violation without regard to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

(b) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 35. (a) All state agency adjudicative proceedings under the naturopathic doctor registration act shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.

(b) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 36. (a) A policy of professional liability insurance approved by the commissioner of insurance and issued by an insurer duly authorized to transact business in this state shall be maintained in effect by each naturopathic doctor as a condition to rendering professional service as a naturopathic doctor in this state.

(b) The provisions of this section shall take effect on and after January 1, 2003.

New Sec. 37. (a) The confidential relations and communications between a naturopathic doctor and the naturopathic doctor's patient are placed on the same basis as provided by law as those between a physician and a physician's patient in K.S.A. 60-427, and amendments thereto.

(b) The provisions of this section shall take effect on and after January 1, 2003.”;

And by renumbering sections accordingly;

Also on page 6, in line 33, after “Supp.” by inserting “65-468.”; after line 34, by inserting the following:

“Sec. 38. On January 1, 2003, K.S.A. 65-2872a is hereby repealed.

Sec. 39. On April 1, 2003, K.S.A. 65-5402, 65-5405, 65-5406, 65-5407, 65-5410, 65-5412 and 65-5414 and K.S.A. 2001 Supp. 65-1501, 65-2891, 65-5408, 65-5409, 65-4915 and 65-4921 are hereby repealed.

On page 1, in the title, in line 10, after “concerning” by inserting “health care services; concerning”; in line 11, after the last semicolon, by inserting “concerning critical access hospitals; relating to occupational therapist licensure; enacting the naturopathic doctor registration act;”; in line 12, by striking all after “K.S.A.”; in line 13, by striking all before the period and inserting the following: “65-5402, 65-5405, 65-5406, 65-5407, 65-5410, 65-5412 and 65-5414 and K.S.A. 2001 Supp. 65-468, 65-1501, 65-2891, 65-4915, 65-4921, 65-5408, 65-5409, 65-6121 and 65-6129 and repealing the existing sections; also repealing K.S.A. 65-2872a and 65-6122”;

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

SUSAN WAGLE

JIM BARNETT

DAVID HALEY

*Conferees on part of Senate*

GARRY BOSTON

JAMES F. MORRISON

JUDY SHOWALTER

*Conferees on part of House*

On motion of Rep. Boston to adopt the conference committee report on **HB 2665**, Rep. Krehbiel offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion did not prevail.

The question then reverted back to the original motion of Rep. Boston and the conference committee report was adopted.

On roll call, the vote was: Yeas 78; Nays 45; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Barnes, Beggs, Bethell, Boston, Burroughs, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, Faber, Findley, Flaharty, Flora, Garner, Gilbert, Gordon, Grant, Henry, Hermes, Horst, Howell, Kauffman, Kirk, Klein, Kuether, Landwehr, Larkin, Levinson, Lightner, Lloyd, Loganbill, M. Long, Loyd, Mason, Mayans, McClure, McCreary, McKinney, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Nichols, O'Neal, Osborne, Palmer, Patterson, Pauls, E. Peterson, Phelps, Pottorff, T. Powell, Powers, Rardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Storm, Thimesch, R. Toelkes, Wells, Welshimer, Wilk, J. Williams, Wilson, Winn.

Nays: Aday, Benlon, Campbell, Cook, DiVita, Dreher, Edmonds, Feuerborn, Freeborn, Gatewood, Glasscock, Goering, Hayzlett, Henderson, Holmes, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Krehbiel, Lane, Light, P. Long, Mays, McLeland, Newton, Novascone, Ostmeyer, Owens, J. Peterson, L. Powell, Pyle, Ray, Schwartz, Stone, Swenson, Tafanelli, Tanner, Tomlinson, Toplikar, Vickrey, Weber, D. Williams.

Present but not voting: None.

Absent or not voting: Neufeld, O'Brien.

EXPLANATION OF VOTE

MR. SPEAKER: I vote "NO" on **HB 2665**. This bill deals with so-called alternative medicine and naturopathic medicine. The correct term is "quackery." I vote no.—JOHN T. EDMONDS

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2145**, 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 1, by striking all of lines 20 through 43;

On page 2, by striking all of lines 1 through 43;

On page 3, by striking all of lines 1 through 27 and inserting:

"Section 1. K.S.A. 8-1556 is hereby amended to read as follows: 8-1556. (a) The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching such school bus when there is in operation on the school bus the flashing red lights specified in subsection (a) of K.S.A. 8-1730, and amendments thereto, and the driver shall not proceed until such school bus resumes motion or the flashing red lights and the stop signal arm are no longer actuated.

(b) Every school bus shall be equipped with red visual signals meeting the requirements of subsection (a) of K.S.A. 8-1730, and amendments thereto, which may be actuated by the driver of the school bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate the special visual signals:

(1) At intersections or other places where traffic is controlled by traffic-control signals or police officers; or

(2) in designated school bus loading areas where the bus is entirely off the roadway.

(c) Every school bus shall bear upon the front and rear thereof plainly visible: ~~(1) signs containing the words "school bus" in letters not less than eight inches in height; and (2) decals stating "Warning: \$100 Fine for Passing Stopped School Bus with Red Lights Flashing and Stop Sign Activated";~~

When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or to or from interschool or intraschool functions or activities, or for maintenance, repair or storage purposes all markings thereon indicating "school bus" shall be covered or concealed.

(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(e) The provisions of this section shall be subject to the provisions contained in K.S.A. 8-2009a, and amendments thereto.

Sec. 2. K.S.A. 8-1556 is hereby repealed.":

By renumbering the remaining section accordingly;

On page 1, in the title, in line 14, by striking all following "ACT"; by striking all of lines 15 and 16; in line 17, by striking all before the period and inserting "regulating traffic; concerning passing stopped school buses; amending K.S.A. 8-1556 and repealing the existing section";

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

LES DONOVAN  
LARRY D. SALMANS  
U.L. GOOCH  
*Conferees on part of Senate*

GARY K. HAYZLETT  
JENE VICKREY  
MARGARET E. LONG  
*Conferees on part of House*

On motion of Rep. Hayzlett, the conference committee report on **HB 2145** was adopted.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Spangler.

Present but not voting: None.

Absent or not voting: Neufeld, O'Brien.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2653**, 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, by striking all of lines 13 through 43;

On page 4, by striking all of lines 8 through 33 and inserting the following:

“Section 1. K.S.A. 8-116a is hereby amended to read as follows: 8-116a. (a) *Except as provided in K.S.A. 8-170, and amendments thereto*, when an application is made for a vehicle which has been assembled, reconstructed, reconstituted or restored from one or more vehicles, or the proper identification number of a vehicle is in doubt, the procedure in this section shall be followed. The owner of the vehicle shall request the Kansas highway patrol to check the vehicle *and the highway patrol shall within a reasonable period of time perform such vehicle check*. At the time of such check the owner shall supply the highway patrol with information concerning the history of the various parts of the vehicle. Such information shall be supplied by affidavit of the owner, if so requested by the highway patrol. If the highway patrol is satisfied that the vehicle contains no stolen parts, it shall assign an existing or new identification number to the vehicle and direct the places and manner in which the identification number is to be located and affixed or implanted. A charge of \$10 per hour or part thereof, with a minimum charge of \$10, shall be made to the owner of a vehicle requesting check under this subsection, and such charge shall be paid prior to the check under this section. When a check has been made under subsection (b), not more than 60 days prior to a check of the same vehicle identification number, requested by the owner of the vehicle to obtain a regular certificate of title in lieu of a nonhighway certificate of title or obtain a rebuilt salvage title in lieu of a salvage title, no charge shall be made for such second check.

(b) Any person making application for any original Kansas title for a used vehicle which, at the time of making application, is titled in another jurisdiction, as a condition precedent to obtaining any Kansas title, shall have such vehicle checked by the Kansas highway patrol for verification that the vehicle identification number shown on the foreign title is genuine and agrees with the identification number on the vehicle. Checks under this section may include inspection for possible violation of K.S.A. 21-3757, and amendments thereto, or other evidence of possible fraud. The verification shall be made upon forms prescribed by the division of vehicles which shall contain such information as the secretary of revenue shall require by rules and regulations. A charge of \$10 per hour or part thereof, with a minimum charge of \$10, shall be made for checks under this subsection. When a vehicle is registered in another state, but is financed by a Kansas financial institution and is repossessed in another state and such vehicle will not be returned to Kansas, the check required by this subsection (b) shall not be required to obtain a valid Kansas title or registration.

(c) As used in this act, "identification number" or "vehicle identification number" means an identifying number, serial number, engine number, transmission number or other distinguishing number or mark, placed on a vehicle, engine, transmission or other essential part by its manufacturer or by authority of the division of vehicles or the Kansas highway patrol or in accordance with the laws of another state or country.

(d) The checks made under subsection (b) may be made by:

(1) A designee of the superintendent of the Kansas highway patrol; or  
(2) an employee of a new vehicle dealer, as defined in subsection (b) of K.S.A. 8-2401, and amendments thereto, for the purposes provided for in subsection (f). For checks made by a designee, \$1 of each charge shall be remitted to the Kansas highway patrol and the balance of such charges shall be retained by such designee. When a check is made under either subsection (a) or (b) by personnel of the Kansas highway patrol or when a check is made under subsection (b) by an employee of a new vehicle dealer, the entire amount of the charge therefor shall be paid to the highway patrol.

(e) There is hereby created the vehicle identification number fee fund. The Kansas highway patrol shall remit all moneys received by the Kansas highway patrol from fees collected under subsection (d) 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 vehicle identification number fee fund. All expenditures from the vehicle identification number fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the Kansas highway patrol or by a person or persons designated by the superintendent.

(f) An employee of a new vehicle dealer, who has received initial training and certification from the highway patrol, and has met continuing certification requirements, in accordance with rules and regulations adopted by the superintendent of the highway patrol, may provide the checks under subsection (b), in accordance with rules and regulations adopted by the superintendent of the highway patrol, on motor vehicles repurchased or reacquired by a manufacturer, distributor or financing subsidiary of such manufacturer and which are purchased by the new vehicle dealer. At any time, after a hearing in accordance with the provisions of the Kansas administrative procedure act, the superintendent of the highway patrol may revoke, suspend, decline to renew or decline to issue certification for failure to comply with the provisions of this subsection, including any rules and regulations.

Sec. 2. K.S.A. 8-170, as amended by section 8 of 2002 House Substitute for Senate Bill No. 364, is hereby amended to read as follows: 8-170. (a) Upon the transfer of ownership of any vehicle registered under the foregoing provisions of this act, its registration and right to use the license plates thereon shall expire and thereafter there shall be no transfer of any registration, and the license plates shall be removed by the owner thereof and it shall be unlawful for any person other than the person to whom such license plates were originally issued to have the same in possession. In case of a transfer of ownership of a registered vehicle the original owner of the license plates may register another antique vehicle under the same license plate designation, upon application therefor and the payment of a fee of \$1.50. On and after January 1, 2000, any model year license plate transferred shall comply with the provisions of subsection (c) of K.S.A. 8-172, and amendments thereto.



(b) Upon the transfer and sale of a registered vehicle by any person, the new owner thereof, before using a vehicle on the highways of this state, shall make application to the division for registration of the vehicle.

(c) Certificate of title:

(1) Application for certificate of title on an antique vehicle shall be made by the owner or the owner's agent upon a blank form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. *For any antique vehicle having a model year prior to 1950, the application together with a bill of sale for the antique vehicle shall be accepted as prima facie evidence that the applicant is the owner of the vehicle and the certificate of title shall be issued for such vehicle. If the application and bill of sale are used to obtain a certificate of title for any antique vehicle having a model year of 1950 or later, the certificate of title shall not be issued until an inspection in accordance with subsection (a) of K.S.A. 8-116, and amendments thereto, has been completed.* The certificate of title shall be delivered to the applicant. The certificate shall contain the words "antique vehicle."

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner before a notary public or some other officer authorized to administer an oath. A certificate of title may be issued under the provisions of this act without an application for registration.

(3) The fee for each original certificate of title so issued shall be \$8 until July 1, 2004, and \$3.50 thereafter. The certificate of title shall be good for the life of the antique vehicle, so long as the same is owned or held by the original holder of the certificate of title, and shall not have to be renewed. In the event of a sale or transfer of ownership of an antique vehicle for which a certificate of title has been issued *under the provisions of this subsection*, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in form printed thereon, as prescribed by the director, and the transferor must deliver the same to the buyer at the time of delivery of the vehicle. The buyer shall then present such certificate of title, assigned as aforesaid, to the director or an authorized agent of the director, whereupon a new certificate of title shall be issued to the buyer, the fee therefor being \$8 until July 1, 2004, and \$3.50 thereafter.

Sec. 3. K.S.A. 8-116a and 8-170, as amended by section 8 of 2002 House Substitute for Senate Bill No. 364 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, in line 11, by striking “8-170” and inserting “8-116a and 8-170, as amended by section 8 of 2002 House Substitute for Senate Bill No. 364”; in line 12, by striking “section” and inserting “sections”;

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

LES DONOVAN  
LARRY D. SALMANS  
U.L. GOOCH  
*Conferees on part of Senate*

GARY K. HAYZLETT  
BOB BETHELL  
MARGARET LONG  
*Conferees on part of House*

On motion of Rep. Bethell, the conference committee report on **Sub. HB 2653** was adopted.

On roll call, the vote was: Yeas 121; Nays 2; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glascock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst,

Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuetner, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Cook, Spangler.

Present but not voting: None.

Absent or not voting: Neufeld, O'Brien.

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. T. Powell in the chair.

#### COMMITTEE OF THE WHOLE

On motion of Rep. T. Powell, Committee of the Whole report, as follows, was adopted: Recommended that **SB 664** be passed.

Committee report recommending a substitute bill to **H. Sub. for SB 152** be adopted; also, on motion of Rep. Levinson to amend, the motion did not prevail.

Also, roll call was demanded on motion of Rep. O'Neal to amend **H. Sub. for SB 152** on page 1, by striking all in lines 42 and 43;

By striking all on pages 2 through 5;

On page 6, by striking all in lines 1 through 18 and inserting:

"Sec. 4. Congressional district 1 shall consist of all of Barber county; and all of Barton county; and all of Chase county; and all of Cheyenne county; and all of Clark county; and all of Clay county; and all of Cloud county; and all of Comanche county; and all of Decatur county; and all of Dickinson county; and all of Edwards county; and all of Ellis county; and all of Ellsworth county; and all of Finney county; and all of Ford county; and the following voting districts in Geary county: (000010), (000030), (000040), (000050), (000060), (00007A), (00007B), (00007C), (00007D), (000080), (000090), (000100), (000110), (00012A), (00012B), (00012C), (00012D), (00013A), (00013B), (000140), (000150), (00016A), (00016B), (00017A), (00017B), (00017C), (000180), (000190), (00020A), (00020B), (00021A), (00021B), (00022A), (00022B), (000230), (000240), (000250), (000270), (000280), (00029A), (00029B), (00029C), (00029D); and all of Gove county; and all of Graham county; and all of Grant county; and all of Gray county; and all of Greeley county; and the following voting districts in Greenwood county: (000070), (000080), (000090), (000130), (000150); and the following blocks in voting district (000160), tract 9956.00, block group 1, in Greenwood county: block 260, block 427, block 430, block 431, block 432, block 460, block 461, block 462, block 463, block 465, block 466, block 467, block 468, block 470, block 471, block 472, block 473, block 519, block 520, block 521, block 602, block 603, block 608, block 609, block 610, block 611, block 612; and all of Hamilton county; and all of Haskell county; and all of Hodgeman county; and all of Jewell county; and all of Kearny county; and all of Kiowa county; and all of Lane county; and all of Lincoln county; and all of Logan county; and all of Lyon county; and all of McPherson county; and all of Marion county; and all of Marshall county; and all of Meade county; and all of Mitchell county; and all of Morris county; and all of Morton county; and the following voting districts in Nemaha county: (000020), (000060), (000070), (000130), (000150), (000190), (00020B), (00020C), (000210), (000220), (00023A), (00023B), (000240), (000250), (000260), (000270), (000280), (000290); and all of Ness county; and all of Norton county; and all of Osborne county; and all of Ottawa county; and all of Pawnee county; and all of Phillips county; and all of Pratt county; and all of Rawlins county; and all of Reno county; and all of Republic county; and all of Rice county; and all of Rooks county; and all of Rush county; and all of Russell county; and all of Saline county; and all of Scott county; and all of Seward county; and all of Sheridan county; and all of Sherman county; and all of Smith county; and all of Stafford county; and all of Stanton county; and all of Stevens county; and

all of Thomas county; and all of Trego county; and all of Wabaunsee county; and all of Wallace county; and all of Washington county; and all of Wichita county.

Sec. 5. Congressional district 2 shall consist of all of Allen county; and all of Anderson county; and all of Atchison county; and all of Bourbon county; and all of Brown county; and all of Cherokee county; and all of Coffey county; and all of Crawford county; and all of Doniphan county; and the following voting districts in Douglas county: (000010), (000030), (00006A), (00006B), (00006C), (00006D), (00010B), (00010C), (00012B), (000170), (000180), (000200), (000210), (000220), (000230), (000240), (000250), (000280), (000290), (000300), (00050A), (00050C), (00052A), (00052B), (00053A), (00053B), (000540), (000560), (000570), (000580), (000590), (00061A), (00061D), (000620), (000630), (000640), (00067B), (000680); and all of Franklin county; and the following voting districts in Geary county: (00002A), (00002B), (00002C), (00002D), (00002E), (00002F), (00002G), (00002H), (00002I), (00002J), (00002K), (00002L), (00002M), (00002N), (00002O), (00002P), (00002Q), (00002R), (000260); and all of Jackson county; and all of Jefferson county; and all of Labette county; and all of Leavenworth county; and all of Linn county; and all of Miami county; and the following voting districts in Nemaha county: (000010), (000030), (000040), (00005A), (00005B), (00005C), (000080), (000090), (000100), (000110), (000120), (000140), (000160), (000170), (000180), (00020A), (000300); and all of Neosho county; and all of Osage county; and all of Pottawatomie county; and all of Riley county; and all of Shawnee county; and all of Wilson county; and all of Woodson county.

Sec. 6. Congressional district 3 shall consist of the following voting districts in Douglas county: (000020), (000040), (000050), (00007A), (00007B), (00007C), (000080), (000090), (00010A), (00010D), (000110), (00012A), (000130), (000140), (000150), (000160), (000190), (000260), (000270), (000310), (000320), (000330), (000340), (000350), (000360), (000370), (000380), (000400), (000410), (000420), (000430), (00044A), (00044B), (00044C), (00044D), (00044E), (000450), (000460), (000470), (00048A), (00048B), (00048C), (00048D), (00049A), (00049B), (00050B), (00050D), (000600), (00061B), (00061C), (000650), (000660), (00067A); and all of Johnson county; and all of Wyandotte county.

Sec. 7. Congressional district 4 shall consist of all of Butler county; and all of Chautauqua county; and all of Cowley county; and all of Elk county; and the following voting districts in Greenwood county: (000010), (000020), (000030), (000040), (000050), (000060), (000100), (000110), (000120), (000140); and the following blocks in voting district (000160), tract 9956.00, block group 1, in Greenwood county: block 256, block 257, block 258, block 259, block 469, block 522, block 523, block 524, block 525, block 526, block 527, block 528, block 529, block 530, block 531, block 532, block 533, block 534, block 535, block 536, block 537, block 538, block 539, block 540, block 541, block 542, block 543, block 544, block 545, block 546, block 547, block 548, block 549, block 550, block 551, block 552, block 553, block 554, block 555, block 556, block 557, block 558, block 559, block 560, block 561, block 562, block 563, block 564, block 565, block 566, block 567, block 568, block 569, block 570, block 571, block 572, block 573, block 574, block 575, block 576, block 577, block 578, block 587, block 598, block 599, block 600, block 601, block 604, block 605, block 606, block 607, block 616, block 977, block 981; and the following voting districts in Greenwood county: (000170), (000180); and all of Harper county; and all of Harvey county; and all of Kingman county; and all of Montgomery county; and all of Sedgwick county; and all of Sumner county.”;

On roll call, the vote was: Yeas 80; Nays 42; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aday, Aurand, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Flaharty, Flora, Freeborn, Gordon, Hayzlett, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huy, Johnson, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Lane, Light, Lightner, Loyd, Mason, Mayans, Mays, McClure, McCreary, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, J. Peterson, L. Powell, T. Powell, Powers, Pyle, Ray, Schwartz, Showalter, Sloan, Stone, Storm, Tafanelli, Tanner, R. Toelkes, Tomlinson, Weber, Wilk, J. Williams.

Nays: Ballard, Burroughs, Crow, Feuerborn, Findley, Garner, Gatewood, Gilbert, Glascock, Goering, Grant, Henderson, Henry, Hutchins, Klein, Larkin, Levinson, Lloyd, Loganbill, M. Long, P. Long, McKinney, Minor, Owens, E. Peterson, Phelps, Pottorff, Reardon, Rehorn, Ruff, Sharp, Shriver, Spangler, Swenson, Thimesch, Toplikar, Vickrey, Wells, Welshimer, D. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Neufeld, O'Brien, Shultz.

The motion of Rep. O'Neal prevailed, and **H. Sub. for SB 152** be passed as amended

On motion of Rep. Pauls **HB 3041** be amended on page 2, in line 11, after the period by inserting "The council shall appoint the compact administrator."; and **HB 3041** be passed as amended.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

#### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was thereupon introduced and read by title:

**HB 3042**, An act concerning peer review; reporting of criminal activity; immunity from liability, by Committee on Federal and State Affairs.

On motion of Rep. Weber, the House recessed until 3:00 p.m.

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#### AFTERNOON SESSION

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

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **Sub. HB 2754; SB 619, HB 2563; S. Sub. for HB 2154; SB 481, HB 2727; H. Sub. for SB 434; H. Sub. for SB 112.**

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 296**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Substitute for Senate Bill No. 296, as follows:

On page 2, in line 15, by striking "inquiry,;" in line 40, by striking "2004" and inserting "2005";

On page 3, in line 14, by striking "act" and inserting "section"; in line 19, by striking "charge" and inserting "charged"; in line 22, after "list", by inserting ". Such schedule of dates shall provide that time period prior to the date of the next quarterly update in which consumers must submit their information in order to be included in the next quarterly update shall not exceed 30 days"; in line 24, after "list", by inserting ". Such schedule of dates shall provide that the no-call list shall be updated no less frequently than on a quarterly basis, on January 1, April 1, July 1 and October 1"; also in line 24, by striking "and"; in line 29, by striking the period and inserting "; and"; following line 29, by inserting:

"(6) the consent of the direct marketing association to subject itself to the jurisdiction of the courts of this state for the purpose of enforcing the provisions of this section; the designation of a resident agent, who is a resident of Kansas, by the direct marketing association, for service of process, and who registers with the secretary of state pursuant to K.S.A. 60-306, and amendments thereto; and the agreement of the direct marketing association and its resident agent to comply with the provisions of this section.";

Also on page 3, in line 42, by striking the comma; also in line 42, after "list", by inserting ", or the attorney general"; also in line 42, after the period, by inserting "The attorney

general may compile a list of telephone numbers from consumers desiring to register for such service. The attorney general shall forward the list to the direct marketing association or such other vendor in electronic format no less than 15 days prior to the date of the next quarterly update. No registration fee shall be imposed on the attorney general for submission of such list to the direct marketing association or such other vendor.

On page 4, in line 2, by striking all after the period; by striking all in lines 3 through 5; in line 6, by striking "October."; by striking all in lines 11 and 12; in line 13, by striking "quarterly update."; in lines 21 and 23, by striking "database" and inserting "list"; in line 23, by striking "90" and inserting "120"; in line 24, after "number", by inserting "; that it may be as long as 30 days from the time of publication of the current quarterly update of the no-call list before the consumer's telephone number is removed from the telephone solicitor's calling lists; and that the consumer and the attorney general may not be able to enforce the provisions of this section until 150 days have passed since the consumer submitted the consumer's registration to be on the no-call list"; in line 25, by striking "60" and by inserting "30";

On page 5, in line 11, after "(h)" by inserting the following:

"It shall be an affirmative defense to a violation of this section if the telephone solicitor can demonstrate by clear and convincing evidence that: (1) The consumer affirmatively listed or held out to the public such consumer's residential number as a business number; (2) the telephone solicitor had knowledge of and relied upon such consumer's actions as provided in subsection (h)(1) at the time of the telephone solicitor's alleged violation; and (3) the purpose of the call was directly related to the consumer's business.

(i)";

Also on page 5, in line 13, by striking "(i)(1)" and inserting "(j)(1)"; in line 24, by striking "(j)" and inserting "(k)"; after line 26, by inserting the following:

"(l) Except as directed by the attorney general, the direct marketing association shall be prohibited from disclosing or using, in any way, any and all addresses obtained from consumers in the course of registering such consumer's phone numbers on the no-call list.";

Also on page 5, in line 27, by striking "(k)" and inserting "(m)"; in line 30, by striking "(l)" and inserting "(n)"; in line 34, by striking "act" and inserting "section"; in line 35, by striking "(m)" and inserting "(o)";

On page 6, in line 1, by striking "(n)" and inserting "(p)"; in line 4, by striking "(o)" and inserting "(q)"; in line 6, by striking "(p)" and inserting "(r)"; in line 8, by striking "New Sec. 3. This act" and inserting "(s) The provisions of this section"; after line 9, by inserting the following:

"New Sec. 3. (a) It shall be an unconscionable act within the meaning of K.S.A. 50-627, and amendments thereto, for any supplier to profiteer from a disaster.

(b) As used in this section:

(1) "Profiteer from a disaster" means unjustifiably increasing during a time of disaster the price at which any necessary property or service is offered for sale to consumers. Actual sales at the increased price shall not be required for the increase to be considered unconscionable. In determining whether the price increase described in this subsection is unjustified, the court shall consider all relevant circumstances including, but not limited to, the following: (A) Whether the price charged by the supplier during the time of disaster grossly exceeded the price charged by the supplier for similar property or services on the business day before the disaster, and an increase of more than 25% shall be *prima facie* evidence of gross excess;

(B) whether the amount charged by the supplier during the time of disaster grossly exceeded the price at which the same or similar property or services were readily obtainable by other consumers in the trade area, and a price difference of more than 25% shall be *prima facie* evidence of gross excess; and

(C) whether the increase in the amount charged by the supplier during the time of disaster was attributable to additional costs incurred by the supplier in connection with the sale of the product or service, and proof the supplier incurred such additional costs shall be *prima facie* evidence that the price increase was justified when such additional costs were actually incurred by the supplier during the period in which the substantially increased price was being charged;

(2) “time of disaster” means the period of time when a declaration of a state of emergency by the president of the United States or the governor is in effect; or 30 days after the occurrence of the event that constitutes the disaster, whichever is longer;

(3) “disaster” means natural or man-made events including, but not limited to, tornado or other severe storm, earthquake, flood, fire, riot, act of war, terrorism, civil disorder or other extraordinary adverse circumstance. The court shall find that an event constitutes a disaster if the event results in the declaration of a state of emergency by the president of the United States or the governor. The court may find that an event constitutes a disaster in the absence of a declared state of emergency; and

(4) “necessary property or service” means any necessary property or service for which consumer demand does, or is likely to, increase as a consequence of the disaster and includes, but is not limited to, consumer food items or property, property or services for emergency cleanup, emergency supplies, communication supplies and services, medical supplies and services, home heating fuel, building materials and services, freight, storage services, housing, lodging, transportation and motor fuels.

(c) The provisions of this section shall be part of and supplemental to the consumer protection act.”;

On page 1, in the title, in line 11, after “concerning”, by inserting “consumer protection; relating to”; in line 12, after the semicolon, by inserting “relating to profiteering from a disaster.”;

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

CARL DEAN HOLMES  
TOM SLOAN  
NILE DILLMORE  
*Conferees on part of House*

JOHN VRATIL  
DAVID ADKINS  
GRETA GOODWIN  
*Conferees on part of Senate*

On motion of Rep. Holmes, the conference committee report on **H. Sub. for Sub. SB 296** was adopted.

On roll call, the vote was: Yeas 117; Nays 4; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Campbell, Compton, Cook, Cox, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Lane, Larkin, Levinson, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O’Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Boston, Burroughs, Crow, Kuether.

Present but not voting: None.

Absent or not voting: Landwehr, Light, Neufeld, O’Brien.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 396**, submits the following report:

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

On page 1, by striking all after the enacting clause;

On page 2, by striking all in lines 1 through 13 and by inserting the following:

“Section 1. K.S.A. 2001 Supp. 75-4318 is hereby amended to read as follows: 75-4318.

(a) ~~Except as otherwise provided by state or federal law or by rules of the house or senate, and except with respect to any impeachment inquiry or other impeachment matter referred to any committee of the house of representatives prior to the report of such committee to the full house of representatives~~ *Subject to the provisions of subsection (f)*, all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state and political and taxing subdivisions thereof, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such bodies shall be by secret ballot; ~~but any administrative body that is authorized by law to exercise quasi-judicial functions shall not be required to have open meetings when such body is deliberating matters relating to a decision involving such quasi-judicial functions.~~ Meetings of task forces, advisory committees or subcommittees of advisory committees created pursuant to a governor’s executive order shall be open to the public in accordance with this act.

(b) Notice of the date, time and place of any regular or special meeting of a public body designated hereinabove shall be furnished to any person requesting such notice, except that:

(1) If notice is requested by petition, the petition shall designate one person to receive notice on behalf of all persons named in the petition, and notice to such person shall constitute notice to all persons named in the petition;

(2) if notice is furnished to an executive officer of an employees’ organization or trade association, such notice shall be deemed to have been furnished to the entire membership of such organization or association; and

(3) the public body may require that a request to receive notice must be submitted again to the body prior to the commencement of any subsequent fiscal year of the body during which the person wishes to continue receiving notice, but, prior to discontinuing notice to any person, the public body must notify the person that notice will be discontinued unless the person resubmits a request to receive notice.

(c) It shall be the duty of the presiding officer or other person calling the meeting, if the meeting is not called by the presiding officer, to furnish the notice required by subsection (b).

(d) Prior to any meeting hereinabove mentioned, any agenda relating to the business to be transacted at such meeting shall be made available to any person requesting said agenda.

(e) The use of cameras, photographic lights and recording devices shall not be prohibited at any meeting mentioned by subsection (a), but such use shall be subject to reasonable rules designed to insure the orderly conduct of the proceedings at such meeting.

(f) *The provisions of the open meetings law shall not apply:*

(1) *To any administrative body that is authorized by law to exercise quasi-judicial functions when such body is deliberating matters relating to a decision involving such quasi-judicial functions;*

(2) *to the parole board when conducting parole hearings or parole violation hearings held at a correctional institution;*

(3) *to any impeachment inquiry or other impeachment matter referred to any committee of the house of representatives prior to the report of such committee to the full house of representatives; and*

(4) *if otherwise provided by state or federal law or by rules of the Kansas senate or house of representatives.*

Sec. 2. K.S.A. 2001 Supp. 75-4318 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.”;

On page 1, in the title, by striking all after “AN ACT” and inserting “concerning open meetings; relating to certain hearings conducted by the parole board; amending K.S.A. 2001 Supp. 75-4318 and repealing the existing section.”;

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

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

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

On motion of Rep. O'Neal, the conference committee report on **SB 396** was adopted.

On roll call, the vote was: Yeas 112; Nays 9; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Feuerborn, Findley, Flora, Freeborn, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Krehbiel, Kuether, Lane, Larkin, Levinson, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Crow, Faber, Flaharty, Garner, Howell, Huebert, Klein, McKinney, Spangler.

Present but not voting: None.

Absent or not voting: Landwehr, Light, Neufeld, O'Brien.

#### CONFERENCE COMMITTEE REPORT

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

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2154, As Amended by the Senate Committee of the Whole, as follows:

On page 1, by striking all after the enacting clause;

By striking all of pages 2 through 17 and inserting the following:

“Section 1. K.S.A. 2001 Supp. 21-4716 is hereby amended to read as follows: 21-4716.

(a) *Except as provided in subsection (b)*, the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines for crimes committed on or after July 1, 1993, unless the judge finds substantial and compelling reasons to impose a departure. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) *Subject to the provisions of subsection (b) of K.S.A. 21-4718, and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.*

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

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

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

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



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

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

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

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

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

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

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

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to commit or assist in avoiding detection or apprehension for commission of any person felony or any attempt, conspiracy or solicitation as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto to commit any person felony regardless of whether the defendant knew the age of the individual under 16 years of age.

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

(i) "Crime of extreme sexual violence" is a felony limited to the following:

(a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;

(b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization; or

(c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

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

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

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

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

(1) Any evidence received during the proceeding;

(2) the presentence report;

(3) written briefs and oral arguments of either the state or counsel for the defendant; and

(4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

Sec. 2. K.S.A. 21-4718 is hereby amended to read as follows: 21-4718. (a) (1) Whenever a person is convicted of a felony, the court upon motion of either the defendant or the state, shall hold a hearing to consider imposition of a departure sentence *other than an upward durational departure sentence*. The motion shall state the type of departure sought and the reasons and factors relied upon. The hearing shall be scheduled so that the parties have adequate time to prepare and present arguments regarding the issues of departure sentencing. The victim of a crime or the victim's family shall be notified of the right to be present at the hearing for the convicted person by the county or district attorney. The parties may submit written arguments to the court prior to the date of the hearing and may make oral arguments before the court at the hearing. The court shall review the victim impact statement. Prior to the hearing, the court shall transmit to the defendant or the defendant's attorney and the prosecuting attorney copies of the presentence investigation report.

(2) At the conclusion of the hearing or within 20 days thereafter, the court shall issue findings of fact and conclusions of law regarding the issues submitted by the parties, and shall enter an appropriate order.

~~(b)~~ (3) If the court decides to depart on its own volition, without a motion from the state or the defendant, the court must notify all parties of its intent and allow reasonable time for either party to respond if ~~they request~~ *requested*. The notice shall state the type of departure intended by the court and the reasons and factors relied upon.

~~(c)~~ (4) In each case in which the court imposes a sentence that deviates from the presumptive sentence, the court shall make findings of fact as to the reasons for departure *as provided in this subsection* regardless of whether a hearing is requested.

(b) (1) *Upon motion of the county or district attorney to seek an upward durational departure sentence, the court shall consider imposition of such upward durational departure sentence in the manner provided in subsection (b)(2). The county or district attorney shall file such motion to seek an upward durational departure sentence not less than 30 days prior to the date of trial or if the trial date is to take place in less than 30 days then within five days from the date of the arraignment.*

(2) *The court shall determine if the presentation of any evidence regarding the alleged fact or factors that may increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be presented to a jury and proved beyond a reasonable doubt during the trial of the matter or following the determination of the defendant's innocence or guilt.*

(3) *If the presentation of the evidence regarding the alleged fact or factors is submitted to the jury during the trial of the matter as determined by the court, then the provisions of subsections (b)(5), (b)(6) and (b)(7) shall be applicable.*

(4) *If the court determines it is in the interest of justice, the court shall conduct a separate departure sentence proceeding to determine whether the defendant may be subject to an upward durational departure sentence. Such proceeding shall be conducted by the court before the trial jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the upward durational departure sentence proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors who are unable to serve at the upward durational departure sentence proceeding, the court may conduct such upward durational departure sentence proceeding before a jury which may have 12 or less jurors, but at no time less than six jurors. Any decision of an upward durational departure sentence proceeding shall be decided by a unanimous decision of the jury. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such jury. The jury at the upward durational departure sentence proceeding may be waived in the manner provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the jury at the upward durational departure sentence proceeding has been waived or the trial jury has been waived, the upward durational departure sentence proceeding shall be conducted by the court.*

(5) *In the upward durational departure sentence proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of determining if any specific factors exist that may serve to enhance the maximum sentence as provided by K.S.A. 21-4716 or 21-4717, and amendments thereto. Only such evidence as the state has made known to the defendant prior to the upward durational departure sentence proceeding shall be admissible, and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the upward durational departure sentence proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral arguments.*

(6) *The court shall provide oral and written instructions to the jury to guide its deliberations.*

(7) *If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more specific factors exist that may serve to enhance the maximum sentence, the defendant may be sentenced pursuant to K.S.A. 21-4716 through 21-4719, and amendments thereto; otherwise, the defendant shall be sentenced as provided by law. The jury, if its verdict is a unanimous recommendation that one or more of the specific factors that may serve to enhance the maximum sentence exists, shall designate in writing, signed by the foreman of the jury, the specific factor or factors which the jury found beyond a reasonable doubt. If, after a reasonable time for deliberation, the jury is unable to reach a verdict of finding any of the specific factors, the court shall dismiss the jury and shall only impose a sentence as provided by law. In nonjury cases, the court shall follow the requirements of this subsection in determining if one or more of the specific factors exist that may serve to enhance the maximum sentence.*

Sec. 3. K.S.A. 21-4718 and K.S.A. 2001 Supp. 21-4716 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all in lines 10 through 16 and inserting:

“AN ACT concerning crimes, criminal procedures and punishment; relating to departure sentencing, procedures; amending K.S.A. 21-4718 and K.S.A. 2001 Supp. 21-4716 and repealing the existing sections.”;

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

JOHN VRATIL  
EDWARD W. PUGH  
GRETA GOODWIN  
*Conferees on part of Senate*

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

On motion of Rep. O'Neal, the conference committee report on **S. Sub. for HB 2154** was adopted.

On roll call, the vote was: Yeas 116; Nays 5; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuetner, Lane, Larkin, Levinson, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone,

Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Freeborn, Goering, Huebert, T. Powell, Spangler.

Present but not voting: None.

Absent or not voting: Landwehr, Light, Neufeld, O'Brien.

#### CONFERENCE COMMITTEE REPORT

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

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

On page 1, by striking all in lines 16 through 31;

And by renumbering sections accordingly;

On page 9, in line 30, by striking "(1)"; in line 41, after "certificate" by inserting "shall be"; in line 42, after "thereto" by inserting "or";

On page 19, by striking all in lines 7 through 43;

By striking all on pages 20 and 21 and by inserting the following:

"Sec. 6. K.S.A. 2001 Supp. 22-4902, as amended by section 1 of 2002 House Bill No. 2399, is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

(a) "Offender" means: (1) A sex offender as defined in subsection (b);

(2) a violent offender as defined in subsection (d);

(3) a sexually violent predator as defined in subsection (f);

(4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or

(C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and ~~amendment~~ *amendments* thereto; or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who is a resident of this state who has been required to register under any federal, military or other state's law;

(7) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) or (5); or

(8) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4) or (5).

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile

offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

- (c) "Sexually violent crime" means:
- (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
  - (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;
  - (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;
  - (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;
  - (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
  - (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;
  - (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;
  - (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;
  - (9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;
  - (10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
  - (11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or
  - (12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;
  - (13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

- (1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;
- (2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto;

or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 *et seq.* and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 2001 Supp. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in *this* subsection ~~(4)~~.”;

On page 22, by striking all in lines 23 through 43;

On page 23, by striking all in lines 1 through 7;

And by renumbering sections accordingly;

Also on page 23, in line 9, by striking “21-3701.”; also in line 9, after “22-4902” by inserting “, as amended by section 1 of 2002 House Bill No. 2399.”;

On page 1, in the title, in line 12, by striking “21-3701.”; also in line 12, after “22-4902” by inserting “, as amended by section 1 of 2002 House Bill No. 2399.”;

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

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

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

On motion of Rep. O'Neal, the conference committee report on **H. Sub. for SB 434** was adopted.

On roll call, the vote was: Yeas 120; Nays 1; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuetner, Lane, Larkin, Levinson, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Nichols, Novascone, O'Neal, Osborne, Ostneyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Spangler.

Present but not voting: None.

Absent or not voting: Landwehr, Light, Neufeld, O'Brien.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 619**, submits the following report:

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

On page 2, in line 33, by striking “2003” and inserting “2004”;

On page 4, following line 30, by inserting the following material to read as follows:

“Sec. 3. K.S.A. 75-6701 is hereby amended to read as follows: 75-6701. (a) On or before each December 4 and on or before each April 4, the director of the budget and the director of the legislative research department shall prepare a joint estimate of revenue to the state general fund for the current fiscal year and ~~the~~ *for each of the two* ensuing fiscal ~~year~~ *years*.”

(b) If prior to final adjournment of any regular session of the legislature any law is enacted providing for additional or less revenues to be deposited in the state treasury to the credit of the state general fund, the director of the budget and the director of the legislative research department shall prepare a joint estimate of such revenues.

(c) In the event of a disagreement or failure to agree upon a joint estimate of revenue pursuant to subsection (a) or (b), the legislature shall utilize the estimates of the director of the legislative research department and the governor shall utilize the estimates of the director of the budget.”;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 31, by striking “is” and inserting “and 75-6701 are”;

On page 1, in the title, in line 13, following “procedures;” by inserting “joint estimates of state general fund revenue;”; in line 14, following “75-3711” by inserting “and 75-6701”;

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

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

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

On motion of Rep. Wilk to adopt the conference committee report on **SB 619**, Rep. McKinney offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion prevailed.

Speaker pro tem Aurand thereupon appointed Reps. Wilk, Neufeld and Nichols as second conferees on the part of the House.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2563**, 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 17 through 43;

By striking all on page 2;

On page 3, by striking all in line 1 and inserting:

“Section 1. K.S.A. 2001 Supp. 17-1271 is hereby amended to read as follows: 17-1271.

(a) The securities commissioner shall remit all moneys received from all fees, charges, deposits or penalties which have been collected under the Kansas securities act or other laws of this state regulating the issuance, sale or disposal of securities or regulating dealers in this state or under the uniform land sales practices act, 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. ~~Twenty percent~~ *In accordance with subsection (a) of K.S.A. 75-3170, and amendments thereto, 20%* of each such deposit shall be credited to the state general fund and, *except as provided in subsection (d),* the balance shall be credited to the securities act fee fund.

(b) On the last day of each fiscal year, the director of accounts and reports shall transfer from the securities act fee fund to the state general fund any remaining unencumbered amount in the securities act fee fund exceeding \$50,000 so that the beginning unencumbered balance in the securities act fee fund on the first day of each fiscal year is \$50,000. All expenditures from the securities act fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the securities commissioner or by a person or persons designated by the securities commissioner.

(c) All amounts transferred from the securities act fee fund to the state general fund under subsection (b) are to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services. Such reimbursements are in addition to those authorized by K.S.A. 75-3170a, and amendments thereto.

(d) *There is hereby established in the state treasury the investor education fund. Such fund shall be administered by the securities commissioner for the purpose of providing for the education of consumers in matters concerning securities regulation and investments. Moneys collected as civil penalties under K.S.A. 17-1266a, and amendments thereto, shall be credited to the investor education fund. The securities commissioner may also receive payments designated to be credited to the investor education fund as a condition in settlements of cases arising out of investigations or examinations. All expenditures from the investor education fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the securities commissioner or by a person or persons designated by the securities commissioner. Five years after the effective date of this act, the securities commissioner shall conduct a review and submit a report to the governor and the legislature concerning the expenditures from the investor education fund and the results achieved from the investor education program.*;

Also on page 3, by renumbering sections 3 and 4 accordingly; in line 2, after "K.S.A." by inserting "2001 Supp.";

In the title, in line 10, by striking "investments" and inserting "securities"; in line 11, by striking all after the second semicolon; by striking all in line 12; in line 13, by striking all before "amending"; also in line 13, after "K.S.A." by inserting "2001 Supp.";

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

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

DOUG MAYS  
BECKY HUTCHINS  
RICK REHORN  
*Conferees on part of House*

On motion of Rep. Mays, the conference committee report on **HB 2563** was adopted.

On roll call, the vote was: Yeas 84; Nays 39; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Dahl, DeCastro, DiVita, Dreher, Edmonds, Faber, Freeborn, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Krehbiel, Lane, Light, Lightner, Lloyd, P. Long, Mason, Mayans, Mays, McClure, McCreary, McLeland, Merrick, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, J. Peterson, Pottorff, L. Powell, T. Powell, Powers, Ray, Rehorn, Ruff, Schwartz, Shriver, Shultz, Sloan, Stone, Tafanelli, Tanner, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Welshimer, Wilk, D. Williams, J. Williams.

Nays: Ballou, Barnes, Burroughs, Crow, Dillmore, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Goering, Henderson, Henry, Kirk, Klein, Kuether, Larkin, Levinson, Loganbill, M. Long, Loyd, McKinney, Miller, Minor, Nichols, E. Peterson, Phelps, Pyle, Reardon, Sharp, Showalter, Spangler, Storm, Swenson, R. Toelkes, Wells, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Landwehr, O'Brien.



**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2878**, 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 pages 8 through 12, by redesignating paragraphs (1) through (20) as subsections (a) through (t); respectively;

Also on page 8, in line 19, by striking "(i)" and inserting "(1)"; in line 28, by striking "(ii)" and inserting "(2)"; in line 29, by striking "(i)" and inserting "(1)"; in line 33 by striking "(iii)" and inserting "(3)"; also in line 33, by striking "(i)" and inserting "(1)";

On page 9, in line 2, by striking "(iv)" and inserting "(4)";

On page 13, by striking all in lines 20 through 43;

On page 14, by striking all in lines 1 through 43;

On page 15, by striking all in lines 1 through 3; preceding line 4, by inserting:

"Sec. 8. K.S.A. 2001 Supp. 19-4004 is hereby amended to read as follows: 19-4004. In all counties wherein the board or boards of county commissioners in the event of a combination of counties has established a governing board, the respective board or boards of county commissioners may levy an annual tax upon all taxable tangible property in such county for mental health services and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. The respective board or boards of county commissioners may also levy an additional annual tax upon all taxable tangible property in such county for mental retardation services and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. The additional levy authorized by this section for mental retardation services shall not be made until a notice of intent to make such levy has been published in a newspaper of general circulation in the county or counties involved by the board or boards of county commissioners proposing to make such levy, and such notice shall state that if a petition signed by 5% of the electors of the county shall file a protest petition within 60 days of the date of such publication a proposition will be submitted at an election called for the purpose in the county for approval of the levy; if such proposition is approved or if no sufficient protest is made, then the board or boards of county commissioners shall levy such tax, but if a sufficient protest is made and such proposition is not approved, the levy will not be made. The proceeds thereof shall be placed in the hands of the appropriate governing board to be administered as provided by this act.

In addition thereto, to provide for the purchase of or the construction of facilities for the community mental health center, and/or facility for the mentally retarded, the board or boards of county commissioners may, upon petition of the governing board, levy an annual tax on all taxable tangible property in their county and to issue and sell general obligation bonds of such county, for the purpose of creating and providing a special fund to be used in acquiring a site for, and the building, equipping, repairing, remodeling and furnishing of a community mental health center, and/or facilities for the mentally retarded, or for any one or more of such purposes. The additional levy authorized by this section shall not be made until a notice of intent to make such levy has been published in a newspaper of general circulation in the county or counties involved by the board or boards of county commissioners proposing to make such levy, and such notice shall state that if a petition signed by 5% of the electors of the county shall file a protest petition within 60 days of the date of such publication a proposition will be submitted at an election called for the purpose in the county for approval of the levy; if such proposition is approved or if no sufficient protest is made, then the board of county commissioners will make the levy of such tax, but if a sufficient protest is made and such proposition is not approved, the levy will not be made. The board of county commissioners shall proceed in the manner prescribed to be followed in such notice. The tax levy may be made annually until sufficient funds have been created for the purpose or purposes, or if the county has issued and sold general obligation bonds, the proceeds raised by the annual tax levy shall be used to retire the general obligation

bonds and the tax levy shall continue until the general obligation bonds have been retired. Such federal, state or private funds as may be available may be accepted by the board of county commissioners to be placed in the fund for operation of or construction of a community mental health center, and/or facility for the mentally retarded, as the case may be. Title to the building or buildings of the community mental health center, and/or facility for the mentally retarded, shall vest in the governing board which is responsible for the maintenance and operation of the facilities if a combination of counties has established the center, but, if only one county has established the mental health center or facilities for the mentally retarded, title shall vest in the board of county commissioners of such county. If the board of county commissioners has contracted with a nonprofit corporation to provide mental health services under K.S.A. 19-4007, and amendments thereto, the title to the building or buildings ~~shall may, in the discretion of the board of county commissioners, vest in the board of county commissioners~~ ~~and they~~ *or the nonprofit corporation providing mental health services, and the board of county commissioners may allow the nonprofit corporation to use the buildings without charge.*”;

By renumbering the sections accordingly;

Also on page 15, in line 5, after “19-2765” by inserting “and 19-4004”;

On page 1, in the title, in line 23, after “19-2765” by inserting “and 19-4004”;

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

BARBARA P. ALLEN  
KAY O'CONNOR  
MARK GILSTRAP  
*Conferees on part of Senate*

JOHN T. EDMONDS  
RAY MERRICK  
BRUCE LARKIN  
*Conferees on part of House*

On motion of Rep. Edmonds, the conference committee report on **HB 2878** was adopted.

On roll call, the vote was: Yeas 115; Nays 7; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Aday, Dillmore, Garner, Goering, Henry, E. Peterson, Spangler.

Present but not voting: None.

Absent or not voting: Landwehr, Mason, O'Brien.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2020**, submits the following report:

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

On page 1, in line 32, by striking “, exemptions or rebates”; in line 34, by striking “and” and inserting “or”;

On page 5, in lines 2 and 3, by striking “or rebate is received”;

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

NANCEY HARRINGTON

PETE BRUNGARDT

U.L. GOOCH

*Conferees on part of Senate*

DOUG MAYS

BECKY HUTCHINS

RICK REHORN

*Conferees on part of House*

On motion of Rep. Mays, the conference committee report on **HB 2020** was adopted.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: Landwehr, O'Brien.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 481**, 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, in line 40, by striking "choose"; in line 41 by striking "three school districts" and inserting "allow every school district"; in line 42, after "process" where it appears for the second time by inserting a period; also in line 42, by striking "pilot pro-"; by striking all of line 43;

On page 4, by striking all of lines 1 through 4 and inserting the following: "The state board of education shall develop guidelines and procedures for those school districts choosing to use these procurement processes.

(b) The school board of any school district desiring to utilize on-line bidding or reverse auctioning must first conduct a public hearing to determine whether or not the administration of that school district will utilize such procedures for purchasing services, materials, goods or wares.;"

Also on page 4, in line 5, by striking "(b)" and inserting "(c)"; also in line 5, by striking "a pilot project" and inserting "any"; in line 7 by striking "services,;" in line 9, by striking "services,;" in line 12, by striking "services,;" in line 13, by striking "(b)" and inserting "(d)"; also in line 13, by striking "a pilot project" and inserting "any"; in line 21, by striking "(c)" and inserting "(e)"; also in line 21, by striking "pilot project"; in line 25, by striking "conducted"; in line 26, by striking "(d)" and inserting "(f)"; in line 29, by striking "(e)" and inserting "(g)"; in line 33, by striking all after "the" the first time it appears; in line 34, by striking all before the period and inserting the following: "state board of education. The report shall include a comparison of the final pricing offered, the percentage in the increase or decrease of the number of bidders participating in the bidding, the number of bidders

outside the state of Kansas, the number of bid protests and any other information deemed appropriate by the state board of education.”;

Also on page 4, in line 35, by striking “(f)” and inserting “(h)”; in line 37, by striking “services.”;

On page 5, in line 29, by striking all after “(g)”; by striking all in lines 30 through 33 and inserting the following: “Any state agency that offers or provides the option of using an electronic signature to persons doing business with that state agency shall establish written standards governing the use of those electronic signatures as follows:

(1) On or before December 31, 2002, for electronic signature applications that are in use by the state agency before July 1, 2002; or

(2) before offering or providing the option of using an electronic signature for any applications implemented on or after July 1, 2002.”;

Also on page 5, in line 36, by striking all after “(i)”; by striking all in lines 37 through 39 and inserting the following: “The secretary of state shall adopt rules and regulations governing the use of digital signatures by state agencies. Each state agency offering or providing the option of using a digital signature to persons doing business with that state agency shall implement digital signatures in a manner consistent with the regulations of the secretary of state, except that the state agency may adopt rules and regulations governing that agency’s use of digital signatures that exceed the minimum standards established by the rules and regulations of the secretary of state.”; in line 40, by striking “16-605” and inserting “16-1605”;

In the title, on page 1, in line 20, by striking “16-605” and inserting “16-1605”;

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

DEENA L. HORST  
JOHN FABER  
DOUG GATEWOOD  
*Conferees on part of House*

KARIN S. BROWNLEE  
NICK JORDAN  
JIM BARONE  
*Conferees on part of Senate*

On motion of Rep. Horst, the conference committee report on **SB 481** was adopted.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O’Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Wimm.

Nays: Spangler.

Present but not voting: None.

Absent or not voting: Landwehr, O’Brien.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 112**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 112, As Amended by House Committee of the Whole, as follows:

By striking all of pages 6 through 8;

On page 9, by striking all of lines 1 through 7 and inserting the following:

“New Section 1. (a) On and after January 1, 2003: (1) No faculty member or other employee of a state educational institution in the unclassified service under the Kansas civil services act, and amendments thereto; or (2) no faculty member or other employee of a postsecondary educational institution shall serve as a consultant or perform consulting services, either individually or as part of a business, unless such person has filed a disclosure statement as required by this section. The disclosure statement shall contain the following information:

- (1) The names of the contracting parties;
- (2) whether or not the faculty member has a substantial interest in the consulting business;
- (3) the date that the contract was approved by the institution as determined by the board of regents;
- (4) the amount of the consideration of the contract;
- (5) a summary of the basic terms of the contract; and
- (6) any other information required by rules and regulations promulgated by the board of regents.

The information required by paragraphs (1) through (5) shall be disclosed pursuant to any request therefor made under the open records act.

(b) The disclosure statement required by this section, and amendments thereto, shall be filed with the secretary of state and the local information officer of the state educational institution or post-secondary educational institution and such other locations as designated by the board of regents by rule and regulation no later than 10 business days after the contract has been signed by both parties. Each disclosure statement, and amendments thereto, required by this section shall be available for public inspection, under the provisions of the open records act, during the normal business hours of any office in which it is filed. Disclosure statements required under this section shall be maintained for a period of five years after the faculty member or unclassified employee of a state educational institution or faculty member or employee of a postsecondary educational institution ceases to be employed by such state educational institution or postsecondary educational institution.

(c) A separate disclosure statement, or amendment of an existing disclosure statement, shall be filed for each consulting business owned, operated or maintained by such faculty member or other unclassified employee in the unclassified service under the Kansas civil service act, and amendments thereto, of a state educational institution or such faculty member or other employee of a postsecondary educational institution.

(d) No contract may be divided for the purpose of evading the requirements of this section. All contracts between the same parties during a calendar year shall be treated cumulatively as one contract for the purposes of this section.

New Sec. 2. The statement required by section 1, and amendments thereto, shall be signed and dated by the individual making the statement and shall contain substantially the following:

STATEMENT OF CONSULTING INTERESTS

(name) \_\_\_\_\_  
 (office or position of employment for which this statement is filed)  
 (address) (body of statement, including the information prescribed by section 1 in form prescribed by Kansas board of regents)

“I declare that this statement of substantial interests (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my consulting interests and other matters required by law. I understand that intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.”

\_\_\_\_\_  
 (date of filing)

\_\_\_\_\_  
 (signature of person making the statement)

New Sec. 3. As used in this act: (a) "Board of regents shall have the meaning ascribed to it in K.S.A. 76-711, and amendments thereto.

(b) "Business" shall have the meaning ascribed to it in K.S.A. 46-230 and amendments thereto.

(c) "Consultant" shall have the meaning ascribed to it in K.S.A. 46-284 and amendments thereto. Consultant also includes any corporation, partnership or other business entity in which the individual has a substantial interest.

(d) "Contract" shall have the meaning ascribed to it in K.S.A. 46-231 and amendments thereto.

(e) "Person" shall have the meaning ascribed to it in K.S.A. 46-223 and amendments thereto.

(f) "Postsecondary educational institution" shall have the meaning ascribed to it in K.S.A. 2001 Supp. 74-3201b, and amendments thereto, except that it shall not include public universities as defined in K.S.A. 2001 Supp. 74-3201b, and amendments thereto.

(g) "State educational institution" shall have the meaning ascribed to it in K.S.A. 76-711, and amendments thereto.

(h) "Substantial interest" shall have the meaning ascribed to it in K.S.A. 46-229 and amendments thereto.

New Sec. 4. This act shall not apply to any faculty member or other employee of a state educational institution in the unclassified service under the Kansas civil service act, and amendments thereto or any faculty member or other employee of a postsecondary educational institution:

(a) Who serves in an adjunct faculty position which is a part-time position which is equivalent to 25% or less of a full-time position;

(b) whose consulting contract has an annual value of \$500 or less;

(c) who is a lawyer if disclosure would require revealing the identity of a client or otherwise violate the lawyer-client privilege set forth in K.S.A. 60-426, and amendments thereto; or

(d) who is a physician if disclosure would require revealing the identity of a patient or otherwise violate the physician-patient privilege set forth in K.S.A. 60-427, and amendments thereto.

New Sec. 5. (a) Failure to file any statement as required by this act or intentionally filing a false statement is a class B misdemeanor.

(b) Failure to provide access to or a copy of a disclosure statement as required by this act shall be deemed to be a violation of the open records act and shall be subject to the provisions of K.S.A. 45-222 and 45-223 and amendments thereto.

New Sec. 6. The Kansas board of regents shall adopt rules and regulations necessary to implement this act on or before January 1, 2003.

New Sec. 7. Sections 1 through 7, and amendments thereto, shall be known and may be cited as the university consulting contract sunshine act.

Sec. 8. K.S.A. 2001 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except that the district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed

or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;

or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;

or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, *et seq.*, and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 *et seq.* and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating



in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and ~~45-2d20~~ 40-2d20 and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) *Records the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; or (B) sewer or wastewater treatment systems, facilities or equipment. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping.*

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publi-

cation of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

Sec. 9. K.S.A. 2001 Supp. 45-221 is hereby repealed.;

By renumbering the remaining section accordingly;

In the title, on page 1, in line 10, by striking all following "ACT"; by striking all of lines 13 through 15; in line 16, by striking all before the semicolon and inserting the following "concerning the disclosure of information; relating to open records; pertaining to certain consulting contracts"; in line 17, by striking "2000 Supp. 74-616" and inserting "2001 Supp. 45-221";

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

CARL DEAN HOLMES  
TOM SLOAN  
LAURA MCCLURE  
*Conferees on part of House*

STAN CLARK  
JIM BARONE  
JAY SCOTT EMLER  
*Conferees on part of Senate*

On motion of Rep. Holmes, the conference committee report on **H. Sub. for SB 112** was adopted.

On roll call, the vote was: Yeas 68; Nays 55; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Barnes, Bethell, Boston, Cook, Dahl, Dillmore, Edmonds, Faber, Flaharty, Flora, Freeborn, Gilbert, Gordon, Grant, Henry, Hermes, Holmes, Howell, Huff, Humerickhouse, Hutchins, Huy, Kirk, Krehbiel, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Mason, Mays, McClure, McKinney, McLeland, Merrick, Minor, Jim Morrison, Myers, Nichols, O'Neal, Osborne, Ostmeyer, E. Peterson, Phelps, L. Powell, T. Powell, Pyle, Rehorn, Ruff, Sharp, Shriver, Shultz, Tafanelli, Thimesch, R. Toelkes, Toplikar, Weber, Wells, Welshimer, D. Williams, J. Williams, Wilson, Winn.

Nays: Aurand, Ballard, Ballou, Beggs, Benlon, Burroughs, Campbell, Compton, Cox, Crow, DeCastro, DiVita, Dreher, Feuerborn, Findley, Garner, Gatewood, Glasscock, Goering, Hayzlett, Henderson, Horst, Huebert, Johnson, Kauffman, Klein, Kuether, Loyd, Mayans, McCreary, Miller, Judy Morrison, Neufeld, Newton, Novascone, Owens, Palmer, Patterson, Pauls, J. Peterson, Pottorff, Powers, Ray, Reardon, Schwartz, Showalter, Sloan, Spangler, Stone, Storm, Swenson, Tanner, Tomlinson, Vickrey, Wilk.

Present but not voting: None.

Absent or not voting: Landwehr, O'Brien.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Holmes, the House concurred in Senate amendments to **Sub. HB 2754**, An act concerning telecommunications; amending K.S.A. 2001 Supp. 66-2005 and 66-2008 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 66-2012 and 66-2016.

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

On roll call, the vote was: Yeas 119; Nays 3; Present but not voting: 1; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Cook, Howell, Spangler.

Present but not voting: Krehbiel.

Absent or not voting: Landwehr, O'Brien.

On motion of Rep. Wilk, the House concurred in Senate amendments to **HB 2991**, An act relating to fire service training; concerning the university of Kansas; establishing the Kansas fire service training commission; authorizing certain transfers to such fund; amending K.S.A. 76-327 and repealing the existing section.

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

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, R. Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Spangler.

Present but not voting: None.

Absent or not voting: Landwehr, O'Brien.

The House stood at ease until the sound of the gavel.

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Speaker pro tem Aurand called the House to order.

**CHANGE OF CONFEREES**

Speaker pro tem Aurand announced the appointment of Rep. Neufeld as a member of the conference committee on **H. Sub. for SB 363** to replace Rep. Pottorff.

On motion of Rep. Weber, the House recessed until 6:00 p.m.

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**EVENING SESSION**

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

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2727**, 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 22 through 43;

By striking all on pages 2 through 16;

On page 17, by striking all in lines 1 through 14 and inserting:

“Section 1. As used in this section and sections 2 through 4, and amendments thereto:

(a) “Drainage district” means any drainage district organized and incorporated pursuant to chapter 24 of the Kansas Statutes Annotated, and amendments thereto.

(b) “County” means the county in which the territory is located.

(c) “Territory” means land and any improvements thereon located within the boundaries of a drainage district which is sought to be detached from such drainage district and attached to an adjacent drainage district.

(d) “Governing body” means the governing body of a drainage district.

(e) “Board” means the board of county commissioners of the county in which the territory, or any portion thereof, is located.

(f) “Transfer” means the detachment of territory from a drainage district and the attachment of such territory to an adjacent drainage district.

Sec. 2. As an alternative to the procedure provided by K.S.A. 24-127 through 24-131, and amendments thereto, and subject to the provisions of K.S.A. 24-127, and amendments thereto, the board of county commissioners of any county may transfer territory from a drainage district to an adjacent drainage district in the manner provided by this act.

Sec. 3. (a) Whenever the governing body of a drainage district deems it advisable that territory located within an adjacent drainage district be transferred, the governing body may submit a petition to the board of county commissioners requesting such transfer. The petition shall:

(1) Describe the territory to be transferred by metes and bounds, or, if platted, by appropriate descriptions as lots or blocks or parts of lots or blocks.

(2) State the name of the drainage district from which the territory is to be detached and the name of the drainage district to which the territory is to be attached.

(3) State that the proposed transfer will result in more efficient or more adequate protection of the territory from overflow or damage and injury resulting therefrom, or will be conducive to the public health, convenience and welfare.

(4) Any other information in support of such transfer.

(b) Upon submission of a petition authorized by subsection (a) to the board of county commissioners, the board shall call and hold a hearing on such petition. Notice of the hearing shall include the time, date and location of the public hearing to be held on the petition. Such notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in each drainage district. The last publication shall be at least 10 days, but not more than 20 days, prior to the date of the public hearing. The cost of such publication shall be paid by the district which submitted the petition.

(c) At such hearing, the board shall hear testimony as to the advisability of granting the petition. In determining whether to grant the petition, the board's considerations shall include, but not be limited to:

- (1) Testimony presented at the public hearing.
- (2) The present cost methods and adequacy of providing drainage district operations, services and works or improvements in the area.
- (3) The proposed cost, extent and the necessity of any proposed or existing drainage district operations, services and works or improvements to be provided by the district which submitted the petition.
- (4) The impact on the tax base of each drainage district and the territory sought to be transferred if the transfer is approved or disapproved.
- (5) The extent to which any services or benefits are provided to the territory by the district which submitted the petition.
- (6) The impact on the provision of drainage district operations, services and works or improvements in the territory and in the remainder of the district if the transfer is approved.
- (7) Whether the proposed transfer will result in more efficient or more adequate protection of the territory from overflow or damage and injury resulting therefrom or will be conducive to the public health, convenience and welfare.
- (8) Whether the district which submitted the petition is obligated to operate or maintain dikes, levees or other flood control works previously constructed by the United States army corps of engineers or other agencies of the United States government in the territory.

(d) The board may continue the hearing beyond the time and date specified in the notice without further notice. After the conclusion of the hearing or any continuation thereof, the board shall render its decision. If the board, by unanimous vote thereof, determines that the transfer of the territory as described in the petition, or a lesser portion thereof, should be approved, the board shall so find and approve the transfer. Any order of the board approving or disapproving a transfer shall be spread at length upon the journal of the proceedings of the board. The failure to spread an order granting the transfer upon the journal shall not invalidate such order.

(e) If the territory is located in more than one county, the petition shall be submitted to the board of county commissioners of each county. The board of county commissioners of each county shall be required to approve the transfer of any territory located in such county. The hearing required by this section may be held jointly by the board of county commissioners of each affected county.

(f) Any owner of territory which is transferred pursuant to this section or a drainage district aggrieved by the decision of the board of county commissioners may appeal the decision of the board to the district court of the same county in the manner and method set forth in K.S.A. 19-223, and amendments thereto. Any drainage district appealing the decision of the board shall not be required to execute the bond prescribed in K.S.A. 19-223, and amendments thereto. Nothing in this subsection shall be construed as granting the owner of land in areas near or adjacent to the territory which is transferred pursuant to this section the right to appeal the decision of the board of county commissioners.

Sec. 4. Any balance of bonded indebtedness, including temporary notes outstanding, shall remain a charge upon the territory which is transferred in accordance with the applicable provisions of K.S.A. 10-119, and amendments thereto. The territory which is transferred shall not be liable for any bonded debt, including temporary notes and no-fund warrants, existing at the time of such transfer, of the district of which it shall become a part.”;

By renumbering the remaining section accordingly;

In the title, by striking all in lines 12 through 19 and inserting:

“AN ACT concerning drainage districts; relating to the transfer of territory thereof.”;

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

BARBARA P. ALLEN

KAY O'CONNOR

MARK GILSTRAP

*Conferees on part of Senate*

GERRY RAY  
LARRY L. CAMPBELL  
RUBY GILBERT  
*Conferees on part of House*

On motion of Rep. Ray, the conference committee report on **HB 2727** was adopted.

On roll call, the vote was: Yeas 104; Nays 16; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aday, Aurand, Ballard, Barnes, Beggs, Boston, Burroughs, Compton, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Edmonds, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, T. Powell, Powers, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Tafanelli, Tanner, R. Toelkes, Tomlinson, Toplikar, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: Ballou, Benlon, Bethell, Cook, Dreher, Faber, Feuerborn, Henry, Howell, Miller, Minor, L. Powell, Pyle, Swenson, Thimesch, Vickrey.

Present but not voting: None.

Absent or not voting: Campbell, Goering, Huy, O'Brien, Spangler.

#### INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Weber pursuant to House Rule 2311, **H. Sub. for SB 152** was advanced to Final Action on Bills and Concurrent Resolutions.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**H. Sub. for SB 152**, An act concerning congressional districts; providing for the redistricting thereof; repealing K.S.A. 4-128, 4-133 and 4-135, was considered on final action.

On roll call, the vote was: Yeas 78; Nays 45; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aday, Aurand, Ballou, Beggs, Benlon, Bethell, Boston, Compton, Cox, Dahl, DeCastro, DiVita, Dreher, Faber, Freeborn, Gordon, Hayzlett, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huy, Johnson, Kauffman, Kirk, Krehbiel, Landwehr, Lane, Light, Lightner, Lloyd, Loyd, Mason, Mayans, Mays, McClure, McCreary, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Owens, Palmer, Patterson, Pauls, L. Powell, T. Powell, Powers, Pyle, Ray, Schwartz, Sharp, Showalter, Shriver, Shultz, Stone, Storm, Swenson, Tafanelli, Tanner, R. Toelkes, Tomlinson, Toplikar, Weber, Wilk, J. Williams.

Nays: Ballard, Barnes, Burroughs, Cook, Crow, Dillmore, Edmonds, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Goering, Grant, Henderson, Henry, Hutchins, Klein, Kuether, Larkin, Levinson, Loganbill, M. Long, P. Long, McKinney, Nichols, E. Peterson, J. Peterson, Phelps, Pottorff, Reardon, Rehorn, Ruff, Sloan, Spangler, Thimesch, Vickrey, Wells, Welshimer, D. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Campbell, O'Brien.

The substitute bill passed, as amended.

#### REPORT ON ENGROSSED BILLS

**HB 2718** reported correctly engrossed May 13, 2002.

**HB 2640**, **HB 2746** reported correctly re-engrossed May 13, 2002.

Also, **HB 2075** reported correctly engrossed May 14, 2002.

**HB 2078**, **HB 2175** reported correctly re-engrossed May 14, 2002.

**REPORT ON ENROLLED BILLS**

**HB 2247; Sub. HB 2285; Sub. HB 2872; HB 2996, HB 3023** reported correctly enrolled, properly signed and presented to the governor on May 14, 2002.

On motion of Rep. Weber, the House adjourned until 9:30 a.m., Wednesday, May 15, 2002.

CHARLENE SWANSON, *Journal Clerk.*

JANET E. JONES, *Chief Clerk.*

