Journal of the Senate

SEVENTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, May 7, 2002—9:00 a.m.

The Senate was called to order by President Dave Kerr.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

At this time every session
Fatigue begins to take its toll.
Almost everything we do
Is beginning to get old.

Wrapping up this session
Is very much desired.
The pressure is increasing
And folks are getting tired.

The President's tired of presiding
And the Governor's tired of waiting.
Doormen are tired of watching doors
And the Aides are tired of aiding.

The Senators and Representatives
Are getting tired of meeting.
The chairmen are tired of chairing
And the leaders tired of leading.

The police are tired of policing
And the clerks are tired of clerking.
The secretaries are tired of secretarying
And everyone's tired of working.

The parties are tired of caucusing
And the Reader's tired of reading.
And the folks at home are yearning
For a personal greeting.

So many people are so tired,
It really is a pity.
But nobody is tireder than
The Conference Committees!

Research is tired of researching
And the lobbyists of counting votes.
Revisors are tired of revising
And reporters of taking notes.

Maybe I'm the problem, Lord,
Maybe we should learn
If I get tired of praying
Maybe that's when we adjourn!

I pray in the Name of Christ,
AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to Committee as indicated:

Judiciary: **Sub HB 2183**.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub for SB 364; SB 400; H Sub for SB 430; S Sub for HB 2094; HB 2247, HB 2563, HB 2709, HB 3011**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 364**, 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, preceding line 16, by inserting the following:

"Section 1. On and after January 1, 2003, K.S.A. 8-126, as amended by section 2 of 2002 House Bill No. 2663, is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

(c) "Truck" means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

(d) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

(e) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(f) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(g) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(h) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(i) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(j) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(k) "Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(l) "Foreign vehicle" means every motor vehicle, trailer or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(m) "Person" means every natural person, firm, partnership, association or corporation.

(n) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(o) "Nonresident" means every person who is not a resident of this state.

(p) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(q) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(r) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers, trailers or vehicles.

(s) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(t) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents.

(u) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(v) "Division" means the division of vehicles of the department of revenue.

(w) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(x) "Passenger vehicle" means every motor vehicle, as herein defined, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

(y) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(z) "Farm trailer" means every trailer as defined in subsection (h) of this section and every semitrailer as defined in subsection (i) of this section, designed and used primarily as a farm vehicle.

(aa) "Motorized bicycle" means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:

(1) A motor which produces not more than 3.5 brake horsepower;

(2) a cylinder capacity of not more than 130 cubic centimeters;

(3) an automatic transmission; and

(4) the capability of a maximum design speed of no more than 30 miles per hour.

(bb) "All-terrain vehicle" means any motorized nonhighway vehicle 45 inches or less in width, having a dry weight of 650 pounds or less, traveling on three or more low-pressure tires, having a seat designed to be straddled by the operator. As used in this subsection, low-pressure tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(cc) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;

(4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

(dd) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.

(ee) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is an oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(ff) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(gg) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with section 1 of 2002 Senate Bill No. 449, and amendments thereto.";

Also on page 1, in line 16, by striking "Section 1." and inserting "Sec. 2.";

On page 3, in line 2, by striking all after "owner"; in line 3, by striking all before the period;

On page 4, in line 20, by striking "defined in K.S.A. 84-9-107" and inserting "provided in article 9 of chapter 84 of the Kansas Statutes Annotated";

On page 7, following line 16, by inserting the following:

"(13) Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's agent upon a 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. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with subsection (a) of K.S.A. 8-116a, and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under paragraph (2) of subsection (c), a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under paragraph (2) of subsection (c) have already been used. The fee for a reassignment form shall be $4.50 until July 1, 2004, and $3.50 thereafter. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.

Sec. 3. On and after January 1, 2003, K.S.A. 8-135, as amended by section 2 of House Substitute for Senate Bill No. 364, is hereby amended to read as follows: 8-135. (a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use any license plate thereon shall expire and thereafter there shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A. 8-172, and amendments thereto, and 8-1,147, and amendments thereto, it shall be unlawful for any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register an-

other vehicle under the same number, upon application and payment of a fee of $1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of $1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of subsection (a) of K.S.A. 8-198, and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A. 2001 Supp. 59-3511, and amendments thereto, the new owner thereof, within 30 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the thirty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the thirty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of $2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 30 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 8-198, and amendments thereto*, and to any electronic certificate of title, except to the extent such paragraphs are made inapplicable by or are inconsistent with section 1 of 2002 Senate Bill No. 449, and amendments thereto, or with rules and regulations adopted pursuant to section 1 of 2002 Senate Bill No. 449, and amendments thereto.*

The provisions of paragraphs (1) through (14) shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such vehicle.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title~~, other than a duplicate title,~~ shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also

contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert the mileage on the form filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer certification made by the seller, except that vehicles which are 10 model years or older and trucks with a gross vehicle weight of more than 16,000 pounds shall be exempt from the mileage acknowledgment requirement of the purchaser or assignee. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a nonhighway vehicle or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant. When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of $3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be $8 until July 1, 2004, and $3.50 thereafter, in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) Upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. The dealer or secured party, within 20 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of $2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title

is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle described on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the Kansas lienholder. Each county treasurer shall charge the Kansas lienholder a $1.50 service fee for processing and mailing a copy of the title application to the Kansas lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are satisfied if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then present such assigned certificate of title to the division at the time of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of $8 until July 1, 2004, and $3.50 thereafter. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security agreement on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of $8 until July 1, 2004, and $3.50 thereafter, to the division. Upon receipt thereof, the division shall issue a new certificate of title showing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title. For failure to comply with such a demand the lienholder shall be liable to the holder of the title for $100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

(7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of delivery, but within 30 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if (i) the seller mails to the purchaser by restricted mail the assigned certificate of title within 30 days, or (ii) if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to

the division, or (iii) if the transferor is a dealer and has assigned a title pursuant to paragraph (9) of this subsection (c).

(8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

(9) Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c)(1).

(10) Motor vehicles may be held and titled in transfer-on-death form.

(11) Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to paragraph (7) of subsection (c) and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

(12) The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of $10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(13) Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's agent upon a 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. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with subsection (a) of K.S.A. 8-116a, and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under paragraph (2) of subsection (c), a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under paragraph (2) of subsection (c) have already been used. The fee for a reassignment form shall be $4.50 until July 1, 2004, and $3.50 thereafter. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.";

By renumbering remaining sections accordingly;

On page 9, following line 25, by inserting the following:

"(3) On July 1, 2002, through June 30, 2004, $3.50 of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $3.50 to the Kansas highway patrol motor vehicle fund. One dollar of

each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $1 to the VIPS/CAMA technology hardware fund.

Sec. 7. K.S.A. 8-145d, as amended by section 1 of 2002 House Bill No. 2662, is hereby amended to read as follows: 8-145d. In addition to the annual vehicle registration fees prescribed by K.S.A. 8-143, 8-143b, 8-143c, 8-143g, 8-143h, 8-143i, 8-167, 8-172 and 8-195, and amendments thereto, *and section 1 of 2002 House Bill No. 2794, and amendments thereto,* any applicant for vehicle registration or renewal thereof for registration shall pay a service fee in the amount of $3 to the county treasurer at the time of making such application. In addition to such service fee, the county treasurer may charge any applicant for vehicle registration or renewal thereof for registration, a satellite registration fee in an amount not to exceed $5 per vehicle registration or renewal thereof for registration, when such application is made at a satellite registration facility established by the county treasurer. The county treasurer shall deposit all amounts received under this section in the special fund created pursuant to K.S.A. 8-145, and amendments thereto, and such amounts shall be used by the county treasurer for all purposes for which such fund has been appropriated by law, and such additional amounts are hereby appropriated as other amounts deposited in such fund.";

By renumbering sections accordingly;

On page 14, by striking all of lines 5 through 41; by inserting before line 42, the following:

"Sec. 11. K.S.A. 58-4204, as amended by section 4 of 2002 House Bill No. 2723, is hereby amended to read as follows: 58-4204. (a) For purposes of this section, a manufactured home or mobile home shall be considered to be personal property. Upon the transfer or sale of any manufactured home or mobile home by any person or dealer, the new owner thereof, within 30 days, inclusive of weekends and holidays, from the date of such transfer or sale, shall make application to the division for the issuance of a certificate of title evidencing the new owner's ownership of such manufactured home or mobile home. An application for certificate of title shall be made by the owner of the manufactured home or mobile home, or the owner's agent, upon a form furnished by the division, and it shall state all liens or encumbrances thereon and such other information as the director may require. Notwithstanding any other provision of this section, no certificate of title, other than a duplicate title, shall be issued for a manufactured home or mobile home having any unreleased lien or encumbrance thereon, unless the transfer of such manufactured home or mobile home has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the director. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of the manufactured home or mobile home, or otherwise entitled to have the certificate of title therefor issued in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title.

(b) The director shall design a distinctive certificate of title to be issued to owners of manufactured homes and mobile homes, so as to be distinguishable from certificates of title issued to owners of vehicles. The certificate of title shall contain a statement of any liens or encumbrances which the application discloses and shall provide such other information as the director determines necessary and appropriate. 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 oaths~~. This assignment shall contain a statement of all liens or encumbrances on the manufactured home or mobile home at the time of assignment. When the ownership of any manufactured home or mobile home passes by operation of law or by repossession upon default of a lease, security agreement or executory sales contract, the person owning such manufactured home or mobile home, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the manufactured home or mobile home.

(c) Dealers shall execute, upon delivery to the purchaser of every new manufactured home, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the manufactured home or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form ap-

proved by the director. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of the purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the director. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new manufactured home, sold in this state, a certificate of title shall be issued.

(d) The fee for each original certificate of title shall be *$8 until July 1, 2004, and* $3.50 *thereafter*. The certificate of title shall be good for the life of the manufactured home or mobile home while owned or held by the original holder of the certificate of title.

(e) Upon sale and delivery to the purchaser of every manufactured home or mobile home subject to a purchase money security interest, as provided for in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and, when so completed, the purchaser shall execute the notice, in a form prescribed by the director, describing the manufactured home or mobile home and showing the name and address of the secured party and of the debtor and such other information as the director may require. The dealer or secured party may, within 10 days of the sale and delivery, mail or deliver the notice of security interest, together with a fee of $2.50, to the division. The notice of security interest shall be retained by the division, until it receives an application for a certificate of title to the manufactured home or mobile home and a certificate of title is issued. The certificate of title shall indicate any security interest in the manufactured home or mobile home. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the manufactured home or mobile home described on the date of such mailing or delivery.

(f) In the event of a sale or transfer of ownership of a manufactured home or mobile home for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the manufactured home or mobile home, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the director and printed thereon, and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the manufactured home or mobile home, or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The sale of a mobile home or manufactured home by a manufactured home dealer without such delivery of an assigned certificate of title is fraudulent and void, and it shall constitute a violation of the Kansas manufactured housing act. The agreement of the parties shall be executed on a form provided by the division. The requirements of this subsection concerning delivery of an assigned title are satisfied, if the transferor mails to the transferee, by restricted mail, the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 58-4202, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title, if the transferor has made application therefor to the division.

The buyer shall then present such assigned certificate of title to the division, and a new certificate of title shall be issued to the buyer upon payment of the fee of *$8 until July 1, 2004, and* $3.50 *thereafter*. If such manufactured home or mobile home is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. If any manufactured home or mobile home is destroyed, dismantled or sold as junk, the owner shall immediately notify the division by surrendering the original or assigned certificate of title.

(g) When a person acquires a security agreement on a manufactured home or mobile home subsequent to the issuance of the original title on such manufactured home or mobile home, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in such form as prescribed by the director. Upon

such surrender, the person shall immediately deliver the certificate of title, application and a fee of *$8 until July 1, 2004, and* $3.50 *thereafter* to the division. Upon receipt thereof the division shall issue a new certificate of title, showing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. The delivery of the certificate of title, application and fee to the division shall perfect such person's security interest in the manufactured home or mobile home described in the certificate of title. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder, within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title. For failure to comply with such a demand, the lienholder shall be liable to the holder of the title for $100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

(h) In the event of the sale of a manufactured home or mobile home under the order of a court, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such manufactured home or mobile home. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title.

(i) Any dealer who has acquired a manufactured home or mobile home, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to retain a Kansas certificate of title therefor during the time such manufactured home or mobile home remains in such dealer's possession and at such dealer's established or supplemental place of business for the purpose of sale. Upon the sale of any such manufactured home or mobile home, the dealer immediately shall deliver to the purchaser or transferee the certificate of title issued by the other state, properly endorsed and assigned to the purchaser or transferee, together with an affidavit executed by the dealer setting forth:

(1) That the dealer warrants to the purchaser or transferee and all other persons who claim through the purchaser or transferee that, at the time of the sale transfer and delivery by the dealers, the manufactured home or mobile home was free and clear of all liens, mortgages and other encumbrances, except those otherwise appearing on the title;

(2) the information shown on the title relating to all previous assignments, including the names of all previous titleholders shown thereon; and

(3) that the dealer has the right to sell and transfer the manufactured home or mobile home.

Sec. 12. On and after January 1, 2003, K.S.A. 58-4204, as amended by section 11 of 2002 House Substitute for Senate Bill No. 364, is hereby amended to read as follows: 58-4204. (a) For purposes of this section, a manufactured home or mobile home shall be considered to be personal property.

(b) The provisions of this section shall apply to any electronic certificate of title, except to the extent such provisions are made inapplicable by or are inconsistent with section 2 of 2002 Senate Bill No. 449, and amendments thereto, or with rules and regulations adopted pursuant to section 2 of Senate Bill No. 449, and amendments thereto.

The provisions of this section shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such manufactured home or mobile home.

(c) Upon the transfer or sale of any manufactured home or mobile home by any person or dealer, the new owner thereof, within 30 days, inclusive of weekends and holidays, from the date of such transfer or sale, shall make application to the division for the issuance of a certificate of title evidencing the new owner's ownership of such manufactured home or mobile home. An application for certificate of title shall be made by the owner of the

manufactured home or mobile home, or the owner's agent, upon a form furnished by the division, and it shall state all liens or encumbrances thereon and such other information as the director may require. Notwithstanding any other provision of this section, no certificate of title~~, other than a duplicate title,~~ shall be issued for a manufactured home or mobile home having any unreleased lien or encumbrance thereon, unless the transfer of such manufactured home or mobile home has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the director. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of the manufactured home or mobile home, or otherwise entitled to have the certificate of title therefor issued in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title.

~~(b)~~ *(d)* The director shall design a distinctive certificate of title to be issued to owners of manufactured homes and mobile homes, so as to be distinguishable from certificates of title issued to owners of vehicles. The certificate of title shall contain a statement of any liens or encumbrances which the application discloses and shall provide such other information as the director determines necessary and appropriate. The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the manufactured home or mobile home at the time of assignment. When the ownership of any manufactured home or mobile home passes by operation of law or by repossession upon default of a lease, security agreement or executory sales contract, the person owning such manufactured home or mobile home, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the manufactured home or mobile home.

~~(c)~~ *(e)* Dealers shall execute, upon delivery to the purchaser of every new manufactured home, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the manufactured home or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the director. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of the purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the director. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new manufactured home, sold in this state, a certificate of title shall be issued.

~~(d)~~ *(f)* The fee for each original certificate of title shall be $8 until July 1, 2004, and $3.50 thereafter. The certificate of title shall be good for the life of the manufactured home or mobile home while owned or held by the original holder of the certificate of title.

~~(e)~~ *(g)* Upon sale and delivery to the purchaser of every manufactured home or mobile home subject to a purchase money security interest, as provided for in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and, when so completed, the purchaser shall execute the notice, in a form prescribed by the director, describing the manufactured home or mobile home and showing the name and address of the secured party and of the debtor and such other information as the director may require. The dealer or secured party may, within 10 days of the sale and delivery, mail or deliver the notice of security interest, together with a fee of $2.50, to the division. The notice of security interest shall be retained by the division, until it receives an application for a certificate of title to the manufactured home or mobile home and a certificate of title is issued. The certificate of title shall indicate any security interest in the manufactured home or mobile home. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the manufactured home or mobile home described on the date of such mailing or delivery.

~~(f)~~ *(h)* In the event of a sale or transfer of ownership of a manufactured home or mobile home for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the manufactured home or mobile home, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the director and printed thereon, and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the manufactured home or mobile home, or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The sale of a mobile home or manufactured home by a manufactured home dealer without such delivery of an assigned certificate of title is fraudulent and void, and it shall constitute a violation of the Kansas manufactured housing act. The agreement of the parties shall be executed on a form provided by the division. The requirements of this subsection concerning delivery of an assigned title are satisfied, if the transferor mails to the transferee, by restricted mail, the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 58-4202, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title, if the transferor has made application therefor to the division.

The buyer shall then present such assigned certificate of title to the division, and a new certificate of title shall be issued to the buyer upon payment of the fee of $8 until July 1, 2004, and $3.50 thereafter. If such manufactured home or mobile home is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. If any manufactured home or mobile home is destroyed, dismantled or sold as junk, the owner shall immediately notify the division by surrendering the original or assigned certificate of title.

~~(g)~~ *(i)* When a person acquires a security agreement on a manufactured home or mobile home subsequent to the issuance of the original title on such manufactured home or mobile home, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in such form as prescribed by the director. Upon such surrender, the person shall immediately deliver the certificate of title, application and a fee of $8 until July 1, 2004, and $3.50 thereafter to the division. Upon receipt thereof the division shall issue a new certificate of title, showing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. The delivery of the certificate of title, application and fee to the division shall perfect such person's security interest in the manufactured home or mobile home described in the certificate of title. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder, within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title. For failure to comply with such a demand, the lienholder shall be liable to the holder of the title for $100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

~~(h)~~ *(j)* In the event of the sale of a manufactured home or mobile home under the order of a court, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such manufactured home or mobile home. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title.

~~(i)~~ *(k)* Any dealer who has acquired a manufactured home or mobile home, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to retain a Kansas certificate of title therefor during the time such manufactured home or mobile home remains in such dealer's possession and at such dealer's established

or supplemental place of business for the purpose of sale. Upon the sale of any such manufactured home or mobile home, the dealer immediately shall deliver to the purchaser or transferee the certificate of title issued by the other state, properly endorsed and assigned to the purchaser or transferee, together with an affidavit executed by the dealer setting forth:

(1) That the dealer warrants to the purchaser or transferee and all other persons who claim through the purchaser or transferee that, at the time of the sale transfer and delivery by the dealers, the manufactured home or mobile home was free and clear of all liens, mortgages and other encumbrances, except those otherwise appearing on the title;

(2) the information shown on the title relating to all previous assignments, including the names of all previous titleholders shown thereon; and

(3) that the dealer has the right to sell and transfer the manufactured home or mobile home.";

By renumbering sections accordingly;

On page 15, by striking all of lines 6 through 8 and inserting the following:

"Sec. 14. K.S.A. 8-135, 8-135, as amended by section 1 of 2002 Senate Bill No. 507, 8-135, as amended by section 2 of 2002 House Bill No. 2794, 8-135a, 8-139, 8-145, 8-145, as amended by section 3 of 2002 House Bill No. 2794, 8-145d, as amended by section 1 of 2002 House Bill No. 2662, 8-145d, as amended by section 4 of 2002 House Bill No. 2794, 8-170, 8-171, 8-198 and 58-4204, as amended by section 4 of 2002 House Bill No. 2723 and K.S.A. 2001 Supp. 74-2013 are hereby repealed.

Sec. 15. On and after January 1, 2003, K.S.A. 8-126, as amended by section 2 of 2002 House Bill No. 2663, 8-126, as amended by section 3 of 2002 Senate Bill No. 449, 8-135, as amended by section 4 of 2002 Senate Bill No. 449, 8-135, as amended by section 2 of 2002 House Substitute for Senate Bill No. 364, 58-4204, as amended by section 6 of 2002 Senate Bill No. 449 and 58-4204, as amended by section 11 of 2002 House Substitute for Senate Bill No. 364 are hereby repealed.";

By renumbering sections accordingly;

On page 1, in the title, by striking all of lines 10 through 13 and inserting the following:

"AN ACT concerning certificates of title; amending K.S.A. 8-126, as amended by section 2 of 2002 House Bill No. 2663, 8-135, 8-135, as amended by section 2 of House Substitute for Senate Bill No. 364, 8-135a, 8-139, 8-145, 8-145d, as amended by section 1 of 2002 House Bill No. 2662, 8-170, 8-171, 8-198, 58-4204, as amended by section 4 of 2002 House Bill No. 2723 and 58-4204, as amended by section 11 of 2002 House Substitute for Senate Bill No. 364 and K.S.A. 2001 Supp. 74-2013 and repealing the existing sections; also repealing K.S.A. 8-126, as amended by section 3 of 2002 Senate Bill No. 449, 8-135, as amended by section 1 of 2002 Senate Bill No. 507, 8-135, as amended by section 2 of 2002 House Bill No. 2794, 8-135, as amended by section 4 of 2002 Senate Bill No. 449, 8-145, as amended by section 3 of 2002 House Bill No. 2794, 8-145d, as amended by section 4 of 2002 House Bill No. 2794 and 58-4204, as amended by section 6 of 2002 Senate Bill No. 449.";

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

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

STEPHEN R. MORRIS
NICK JORDAN
PAUL FELECIANO, JR.
Conferees on part of Senate

Senator Morris moved the Senate adopt the Conference Committee Report on **H Sub for SB 364**.

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

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

Nays: Adkins, Huelskamp, Lyon, O'Connor, Pugh, Tyson.

Present and Passing: Jackson.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 400**, 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 1, after line 16, by inserting the following:

"Section 1. K.S.A. 38-1507 is hereby amended to read as follows: 38-1507. (a) Except as otherwise provided, in order to protect the privacy of children who are the subject of a child in need of care record or report, all records and reports concerning children in need of care, including the juvenile intake and assessment report, received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker shall be kept confidential except: (1) To those persons or entities with a need for information that is directly related to achieving the purposes of this code, or (2) upon an order of a court of competent jurisdiction pursuant to a determination by the court that disclosure of the reports and records is in the best interests of the child or are necessary for the proceedings before the court, or both, and are otherwise admissible in evidence. Such access shall be limited to in camera inspection unless the court otherwise issues an order specifying the terms of disclosure.

(b) The provisions of subsection (a) shall not prevent disclosure of information to an educational institution or to individual educators about a pupil specified in subsection (a) of K.S.A. ~~2000~~ *2001* Supp. 72-89b03 and amendments thereto.

(c) When a report is received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker which indicates a child may be in need of care, the following persons and entities shall have a free exchange of information between and among them:

(1) The department of social and rehabilitation services;

(2) the commissioner of juvenile justice;

(3) the law enforcement agency receiving such report;

(4) members of a court appointed multidisciplinary team;

(5) an entity mandated by federal law or an agency of any state authorized to receive and investigate reports of a child known or suspected to be in need of care;

(6) a military enclave or Indian tribal organization authorized to receive and investigate reports of a child known or suspected to be in need of care;

(7) a county or district attorney;

(8) a court services officer who has taken a child into custody pursuant to K.S.A. 38-1527, and amendments thereto;

(9) a guardian ad litem appointed for a child alleged to be in need of care;

(10) an intake and assessment worker;

(11) any community corrections program which has the child under court ordered supervision;

(12) the department of health and environment or persons authorized by the department of health and environment pursuant to K.S.A. ~~59-512~~ *65-512*, and amendments thereto, for the purpose of carrying out responsibilities relating to licensure or registration of child care providers as required by chapter 65 of article 5 of the Kansas Statutes Annotated, and amendments thereto; and

(13) members of a duly appointed community services team.

(d) The following persons or entities shall have access to information, records or reports received by the department of social and rehabilitation services, a law enforcement agency

or any juvenile intake and assessment worker. Access shall be limited to information reasonably necessary to carry out their lawful responsibilities to maintain their personal safety and the personal safety of individuals in their care or to diagnose, treat, care for or protect a child alleged to be in need of care.

(1) A child named in the report or records.

(2) A parent or other person responsible for the welfare of a child, or such person's legal representative.

(3) A court-appointed special advocate for a child, a citizen review board or other advocate which reports to the court.

(4) A person licensed to practice the healing arts or mental health profession in order to diagnose, care for, treat or supervise: (A) A child whom such service provider reasonably suspects may be in need of care; (B) a member of the child's family; or (C) a person who allegedly abused or neglected the child.

(5) A person or entity licensed or registered by the secretary of health and environment or approved by the secretary of social and rehabilitation services to care for, treat or supervise a child in need of care. In order to assist a child placed for care by the secretary of social and rehabilitation services in a foster home or child care facility, the secretary shall provide relevant information to the foster parents or child care facility prior to placement and as such information becomes available to the secretary.

(6) A coroner or medical examiner when such person is determining the cause of death of a child.

(7) The state child death review board established under K.S.A. 22a-243, and amendments thereto.

(8) A prospective adoptive parent prior to placing a child in their care.

(9) The department of health and environment or person authorized by the department of health and environment pursuant to K.S.A. ~~59-512~~ *65-512*, and amendments thereto, for the purpose of carrying out responsibilities relating to licensure or registration of child care providers as required by chapter 65 of article 5 of the Kansas Statutes Annotated, and amendments thereto.

(10) The state protection and advocacy agency as provided by subsection (a)(10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of K.S.A. 74-5515, and amendments thereto.

(11) Any educational institution to the extent necessary to enable the educational institution to provide the safest possible environment for its pupils and employees.

(12) Any educator to the extent necessary to enable the educator to protect the personal safety of the educator and the educator's pupils.

(13) The secretary of social and rehabilitation services.

(14) A law enforcement agency.

(15) A juvenile intake and assessment worker.

(16) The commissioner of juvenile justice.

(e) Information from a record or report of a child in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on appropriations, senate committee on ways and means, legislative post audit committee and joint committee on children and families, carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319 and amendments thereto, in a closed or executive meeting. Except in limited conditions established by ⅔ of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

(f) Nothing in this section shall be interpreted to prohibit the secretary of social and rehabilitation services from summarizing the outcome of department actions regarding a child alleged to be a child in need of care to a person having made such report.

(g) Disclosure of information from reports or records of a child in need of care to the public shall be limited to confirmation of factual details with respect to how the case was handled that do not violate the privacy of the child, if living, or the child's siblings, parents or guardians. Further, confidential information may be released to the public only with the express written permission of the individuals involved or their representatives or upon order

of the court having jurisdiction upon a finding by the court that public disclosure of information in the records or reports is necessary for the resolution of an issue before the court.

(h) Nothing in this section shall be interpreted to prohibit a court of competent jurisdiction from making an order disclosing the findings or information pursuant to a report of alleged or suspected child abuse or neglect which has resulted in a child fatality or near fatality if the court determines such disclosure is necessary to a legitimate state purpose. In making such order, the court shall give due consideration to the privacy of the child, if, living, or the child's siblings, parents or guardians.

(i) Information authorized to be disclosed in subsections (d) through (g) shall not contain information which identifies a reporter of a child in need of care.

(j) Records or reports authorized to be disclosed in this section shall not be further disclosed, except that the provisions of this subsection shall not prevent disclosure of information to an educational institution or to individual educators about a pupil specified in subsection (a) of K.S.A. ~~2000~~ *2001* Supp. 72-89b03 and amendments thereto.

(k) Anyone who participates in providing or receiving information without malice under the provisions of this section shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from providing or receiving information.

(l) No individual, association, partnership, corporation or other entity shall willfully or knowingly disclose, permit or encourage disclosure of the contents of records or reports concerning a child in need of care received by the department of social and rehabilitation services, a law enforcement agency or a juvenile intake and assessment worker except as provided by this code. Violation of this subsection is a class B misdemeanor.

Sec. 2. K.S.A. 59-605 is hereby amended to read as follows: 59-605. ~~If it shall appear that any will was written or prepared by the sole or principal beneficiary in such will, who, at the time of writing or preparing the same, was the confidential agent or legal adviser of the testator, or who occupied at the time any other position of confidence or trust to such testator, such will shall not be held to be valid unless it shall affirmatively appear that the testator had read or knew the contents of such will, and had independent advice with reference thereto.~~ *Any provision in a will or trust, written or prepared for another person, that gives the writer or preparer or the writer's or preparer's parent, children, issue, sibling or spouse any devise or bequest is invalid unless: (a) The writer or preparer is related to the testator or grantor by blood or marriage and such provision that gives such devise or bequest does not give the writer or preparer or the writer's or preparer's parent, child, issue, sibling or spouse more than the writer or preparer or the writer's or preparer's parent, child, issue, sibling or spouse would receive under the laws of intestate succession; or (b) it affirmatively appears that the testator or grantor had read or knew the content of the will or trust and had independent legal advice with reference thereto. As used in this section, "children" and "issue" shall have the same meaning as provided in K.S.A. 59-501, and amendments thereto.*";

And by renumbering sections accordingly;

On page 2, in line 38, after "K.S.A." by inserting "38-1507, 59-511, 59-512, 59-605,";

On page 1, in the title, in line 13, before "amending" by inserting "invalidity of certain provisions in wills or trusts, exceptions; certain rights of aliens;"; also in line 13, after "K.S.A." by inserting "38-1507, 59-605,"; in line 14, after "sections" by inserting "; also repealing K.S.A. 59-511 and 59-512";

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

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 400**.

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

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

Present and Passing: Jackson.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 430**, 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, after line 14, by inserting:

"Section 1. K.S.A. 2001 Supp. 19-3552 is hereby amended to read as follows: 19-3552. For the purpose of providing a water supply or other services to the participating public agencies the governing body of the district shall have the following powers, authorities and privileges:

(1) To accept by gift or grant from any person, firm, corporation, trust or foundation, or from this state or any other state or any political subdivision or municipality thereof, or from the United States, any funds or property or any interest therein for the uses and purposes of the district and to hold title thereto in trust or otherwise and to bind the district to apply the same according to the terms of such gift or grant;

(2) to sue and be sued;

(3) to enter into franchises, contracts and agreements with this or any other state or the United States or any municipality, political subdivision or district thereof, or any of their agencies or instrumentalities, or any public or private person, partnership, association, or corporation of this state or of any other state or the United States, and this state and any such municipality, political subdivision, district, or any of their agencies or instrumentalities, and any such public or private person, partnership, association, or corporation is hereby authorized to enter into contracts and agreements with such district for any term not exceeding 40 years for the planning, development, construction, acquisition, or operation of any facility or for any service rendered to, for, or by the district;

(4) to borrow money and evidence the same by warrants, notes, or bonds as hereinafter provided in this act, and to refund the same by the issuance of refunding obligations;

(5) to acquire land and interests in land by gift, purchase, exchange or eminent domain, such power of eminent domain to be exercised within or without the boundaries of the district in accordance with provisions of K.S.A. 26-501, and amendments thereto;

(6) to acquire by purchase or lease, construct, install, and operate reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution, and utilization of water and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization;

(7) to provide, by contract, to participating public agencies for the construction, installation and operation of pipelines, wells, pumping stations and other facilities and services relating to the distribution of water within the boundaries of the participating public agencies or retail distribution and utilization of water and to own and hold such real and personal property as may be necessary in relation thereto, except that, if the contract amount for such services is $10,000 or more, the district shall be authorized to provide such services only if the award of the contract is based on competitive bids;

(8) to provide, by contract, to participating public agencies for the operation and maintenance of state-permitted wastewater treatment works, systems and other facilities and services relating to the treatment of wastewater within the boundaries of the participating public agencies;

~~(8)~~ *(9)* to have the general management, control, and supervision of all the business, affairs, property, and facilities of the district, and of the construction, installation, operation, and maintenance of district improvements, and to establish regulations relating thereto;

~~(9)~~ *(10)* to hire and retain agents, employees, engineers and attorneys and to determine their compensation. The governing body shall select and appoint a general manager of the district who shall serve at the pleasure of the governing body. The general manager shall have training and experience in the supervision and administration of water systems and shall manage and control the water system under the general supervision of the governing body. All employees, servants and agents of the district shall be under the immediate control and management of the general manager. The general manager shall perform all such other duties as may be prescribed by the governing body and shall give the governing body a good and sufficient surety company bond in a sum to be set and approved by the governing body conditioned upon the satisfactory performance of the general manager's duties. The governing body also may require that any other employees be bonded in such amount as it shall determine. The cost of such bonds shall be paid out of the funds of the district;

~~(10)~~ *(11)* to adopt and amend rules and regulations not in conflict with the constitution and laws of this state, necessary for the carrying on of the business, objects and affairs of the governing body and of the district; and

~~(11)~~ *(12)* to have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes of this act.

Sec. 2. K.S.A. 82a-619 is hereby amended to read as follows: 82a-619. ~~(a)~~ Every district incorporated under this act shall have perpetual succession, subject to dissolution or consolidation pursuant to law and shall have the power *to*:

~~(1) To~~ *(a)* Exercise eminent domain within the boundaries of such district; ~~(2) to~~

(b) sue and be sued;

~~(3) to~~ *(c)* contract;

~~(4) to~~ *(d)* hold real and personal property acquired by will, gift, purchase, or otherwise, as authorized by law;

~~and (5) to~~ *(e)* construct, install, maintain and operate such ponds, reservoirs, pipelines, wells, check dams, pumping installations or other facilities for the storage, transportation or utilization of water and such appurtenant structures and equipment necessary to carry out the purposes of its organization.

~~(b) Each such district shall have the power: (1) To;~~

(f) contract with cities or counties, or both, to operate and maintain state-permitted wastewater treatment works, systems and other facilities relating to the treatment of wastewater within the boundaries of the district;

(g) cooperate with and enter into agreements with the secretary of the United States department of agriculture or the secretary's duly authorized representative necessary to carry out the purposes of its organization; and ~~(2)~~ to accept financial or other aid which the secretary of the United States department of agriculture is empowered to give pursuant to 16 U.S.C.A., secs. 590r, 590s, 590x-1, 590x-a and 590x-3, ~~or~~ *and* amendments thereto.

~~(c) Each such district shall have the power to;~~

(h) acquire loans for the financing of up to 95% of the cost of the construction or purchase of any project or projects necessary to carry out the purposes for which such district was organized and to execute notes and mortgages in evidence thereof with interest, or combined interest and mortgage insurance charges, which shall not exceed 13%, except that for purposes of interim financing, interest or combined interest and mortgage insurance charges shall not exceed 14%. Any district shall have the same power to acquire loans for the refinancing of up to 95% of the original cost of any such project or projects. The balance of the cost of construction shall be acquired by subscription, donation, gift or otherwise than through the medium of loans, except that in the case of cooperative corporations and corporations not for profit being converted to water districts as provided for in K.S.A. 82a-631 to 82a-635, inclusive, *and amendments thereto,* the district may assume 100% of the indebtedness of the corporation, providing the corporation originally raised at least 10% of the construction cost by means otherwise than through the medium of loans. ~~(d)~~ Any such loan may be secured by any or all of the physical assets owned by the district, including

easements and rights-of-way, except that no district organized under this act shall have any power or authority to levy any taxes ~~whatsoever~~.

New Sec. 3. A rural water district organized under K.S.A. 82a-612 *et seq.*, and amendments thereto, may provide for any election of the district to be conducted by mail ballot in accordance with the bylaws of the district.

Sec. 4. K.S.A. 82a-626 is hereby amended to read as follows: 82a-626. *(a)* The term of office of every member elected to an original board shall be until the date of the annual meeting of the participating members of either the first, second or third year following the year of the incorporation of the district and until their successors are elected and have qualified, and as nearly as possible the terms of an equal number of directors on any such board shall expire on each of ~~said~~ *such* dates.

(b) Except as provided by the bylaws of the district pursuant to section 3, and amendments thereto, at the annual meeting of each year after the year of the election of the original board members, elections shall be held to elect directors to fill any position on the board, the term of office of which has expired, and any director so elected shall hold office for a term of three years and until such director's successor is elected and has qualified. For the purpose of election of board members and for such other purposes as the bylaws may prescribe, annual meetings of participating members shall be held by each district between January 1 and April 1 of each year following the year of incorporation of such district. The board of directors shall cause notice of the time and place of each annual meeting and the purpose thereof to be mailed to each of its participating members or shall cause such notice to be published in a newspaper of general circulation within the district. Every such notice shall be mailed or published not less than 10 nor more than 30 days prior to any such meeting. Each participating member shall be entitled to a single vote, regardless of the number of benefit units to which such member has subscribed.";

By renumbering section 1 accordingly;

On page 2, in line 29, by striking "Such rules and regulations" and inserting "Within 90 days after receipt of a final draft of proposed rules and regulations recommended by a groundwater management district, the chief engineer shall: (1) Approve or reject the proposed rules and regulations for adoption; and (2) either initiate procedures pursuant to the rules and regulations filing act to adopt the approved proposed rules and regulations or return the rejected proposed rules and regulations, together with written reasons for the rejection, to the groundwater management district. Proposed rules and regulations recommended to the chief engineer"; in line 39, by striking "Such rules and regulations" and inserting "Within 90 days after receipt of a final draft of proposed rules and regulations recommended by a groundwater management district, the department, commission or other agency shall: (1) Approve or reject the proposed rules and regulations for adoption; and (2) either initiate procedures pursuant to the rules and regulations filing act to adopt the approved proposed rules and regulations or return the rejected proposed rules and regulations, together with written reasons for the rejection, to the groundwater management district. Proposed rules and regulations recommended to the department, commission or other agency";

On page 3, after line 19, by inserting:

"Sec. 6. K.S.A. 2001 Supp. 82a-1030 is hereby amended to read as follows: 82a-1030. (a) In order to finance the operations of the district, the board may assess an annual water user charge against every person who withdraws groundwater from within the boundaries of the district. The board shall base such charge upon the amount of groundwater allocated for such person's use pursuant to such person's water right. Such charge shall not exceed ~~$.60~~ *$1* for each acre-foot (325,851 gallons) of groundwater withdrawn within the district or allocated by the water right, except that ~~the annual user charge for the fiscal year of the district beginning on or after July 1, 2001, and before July 1, 2002, may be in an amount not exceeding $.65~~ *a groundwater management district may assess a greater annual water user charge not exceeding $1.50 for each acre-foot of groundwater withdrawn within the district if more than 50% of the authorized place of use for such groundwater is outside the district*. Whenever a person shows by the submission to the board of a verified claim and any supportive data which may be required by the board that such person's actual annual groundwater withdrawal is in a lesser amount than that allocated by the water right of such

person, the board shall assess such annual charge against such person on the amount of water shown to be withdrawn by the verified claim. Any such claim shall be submitted by April 1 of the year in which such annual charge is to be assessed. The board may also make an annual assessment against each landowner of not to exceed $.05 for each acre of land owned within the boundaries of the district. Special assessments may also be levied, as provided hereafter, against land specially benefited by a capital improvement without regard to the limits prescribed above.

(b) Before any assessment is made, or user charge imposed, the board shall submit the proposed budget for the ensuing year to the eligible voters of the district at a hearing called for that purpose by one publication in a newspaper or newspapers of general circulation within the district at least 28 days prior to the meeting. Following the hearing, the board shall, by resolution, adopt either the proposed budget or a modified budget and determine the amount of land assessment or user charge, or both, needed to support such budget.

(c) Both the user charges assessed for groundwater withdrawn and the assessments against lands within the district shall be certified to the proper county clerks and collected the same as other taxes in accordance with K.S.A. 79-1801, and acts amendatory thereof or supplemental thereto, and the amount thereof shall attach to the real property involved as a lien in accordance with K.S.A. 79-1804, and acts amendatory thereof or supplemental thereto. All moneys so collected shall be remitted by the county treasurer to the treasurer of the groundwater management district who shall deposit them to the credit of the general fund of the district. The accounts of each groundwater management district shall be audited annually by a public accountant or certified public accountant.

(d) Subsequent to the certification of approval of the organization of a district by the secretary of state and the election of a board of directors for such district, such board shall be authorized to issue no-fund warrants in amounts sufficient to meet the operating expenses of the district until money therefor becomes available pursuant to user charges or assessments under subsection (a). In no case shall the amount of any such issuance be in excess of 20% of the total amount of money receivable from assessments which could be levied in any one year as provided in subsection (a). No such warrants shall be issued until a resolution authorizing the same shall have been adopted by the board and published once in a newspaper having a general circulation in each county within the boundaries of the district. Whereupon such warrants may be issued unless a petition in opposition to the same, signed by not less than 10% of the eligible voters of such district and in no case by less than 20 of the eligible voters of such district, is filed with the county clerk of each of the counties in such district within 10 days following such publication. In the event such a petition is filed, it shall be the duty of the board of such district to submit the question to the eligible voters at an election called for such purpose. Such election shall be noticed and conducted as provided by K.S.A. 82a-1031, and amendments thereto.

Whenever no-fund warrants are issued under the authority of this subsection, the board of directors of such district shall make an assessment each year for three years in approximately equal installments for the purpose of paying such warrants and the interest thereon. All such assessments shall be in addition to all other assessments authorized or limited by law. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by said statute and may be issued without the approval of the state board of tax appeals. Any surplus existing after the redemption of such warrants shall be handled in the manner prescribed by K.S.A. 79-2940, and amendments thereto.";

By renumbering the remaining sections accordingly;

On page 4, in line 15, before "82a-1028", by inserting "82a-619, 82a-626 and"; also in line 15, before "82a-1903", by inserting "19-3552, 82a-1030 and";

In the title, in line 10, after "concerning", by inserting "water; relating to powers of certain rural water districts and public wholesale water supply districts; authorizing certain rural water district elections to be held by mail ballot; relating to certain powers of"; in line 11, before "82a-1028", by inserting "82a-619, 82a-626 and"; also in line 11, before "82a-1903", by inserting "19-3552, 82a-1030 and";

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

JOANN LEE FREEBORN
DON MYERS
LAURA MCCLURE
Conferees on part of House

ROBERT TYSON
MARK TADDIKEN
CHRISTINE DOWNEY
Conferees on part of Senate

Senator Tyson moved the Senate adopt the Conference Committee Report on **H Sub for SB 430.**

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 1, Absent or Not Voting 0.

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

Nays: Corbin.

Present and Passing: Jackson.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2094**, 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. 2094, as follows:

On page 1, following line 13, by inserting the following:

"Section 1. K.S.A. 2001 Supp. 72-978 is hereby amended to read as follows: 72-978. (a) (1) In each school year, in accordance with appropriations for special education and related services provided under this act, each school district which has provided special education and related services in compliance with the provisions of this act shall be entitled to receive:

(A) Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified under K.S.A. 75-3203, and amendments thereto, for each mile actually traveled during the school year in connection with duties in providing special education or related services for exceptional children; such reimbursement shall be computed by the state board by ascertaining the actual travel allowances paid to special teachers by the school district for the school year and shall be in an amount equal to 80% of such actual travel allowances;

(B) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services; such reimbursement shall not be paid if such child has been counted in determining the transportation weighting of the district under the provisions of the school district finance and quality performance act;

(C) reimbursement in an amount equal to 80% of the actual expenses incurred for the maintenance of an exceptional child at some place other than the residence of such child for the purpose of providing special education or related services; such reimbursement shall not exceed $600 per exceptional child per school year; and

(D) *except for those school districts entitled to receive reimbursement under subsection (b) or (c),* after subtracting the amounts of reimbursement under ~~(A), (B) and (C)~~ *paragraphs (A), (B) and (C) of this subsection (a)* from the total amount appropriated for special education and related services under this act, an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services

bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

(2) Each special teacher who is qualified to assist in the provision of special education or related services to exceptional children shall be counted as ⅖ full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

(b) Each school district which has paid amounts for the provision of special education and related services under an interlocal agreement shall be entitled to receive reimbursement under subsection (a)(1)(D). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services under the interlocal agreement, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all school districts in the current school year who have entered into such interlocal agreement for provision of such special education and related services.

(c) Each contracting school district which has paid amounts for the provision of special education and related services as a member of a cooperative shall be entitled to receive reimbursement under subsection (a)(1)(D). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services by the cooperative, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all contracting school districts in the current school year by such cooperative for provision of such special education and related services.

~~(b)~~ *(d)* No time spent by a special teacher in connection with duties performed under a contract entered into by the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Larned juvenile correctional facility, or the Topeka juvenile correctional facility and a school district for the provision of special education services by such state institution shall be counted in making computations under this section.";

And by renumbering the remaining sections accordingly;

On page 4, after line 31, by inserting the following:

"Sec. 3. K.S.A. 2001 Supp. 72-6426 is hereby amended to read as follows: 72-6426. (a) There is hereby established in every district a fund which shall be called the contingency reserve fund~~, which~~. *Such* fund shall consist of all moneys deposited therein or transferred thereto according to law. The fund shall be maintained for payment of expenses of a district attributable to financial contingencies ~~which were not anticipated at the time of adoption of the general fund budget~~ *as determined by the board*. Except as otherwise provided in subsection (b), at no time in any school year shall the amount maintained in the fund exceed an amount equal to 4% of the general fund budget of the district for the school year.

(b) In any school year, if the amount in the contingency reserve fund of a district is in excess of the amount authorized under subsection (a) to be maintained in the fund, and if such excess amount is the result of a reduction in the general fund budget of the district for the school year because of a decrease in enrollment, the district may maintain the excess amount in the fund until depletion of such excess amount by expenditure from the fund for the purposes thereof.";

And by renumbering the remaining sections accordingly;

On page 5, after line 20, by inserting the following:

"Sec. 5. K.S.A. 2001 Supp. 72-6433 is hereby amended to read as follows: 72-6433. (a) (1) The board of any district may adopt a local option budget in each school year~~, commencing with the 1997-98 school year,~~ in an amount not to exceed an amount equal to the district prescribed percentage of the amount of state financial aid determined for the district in the school year. As used in this ~~provision the term~~ *section,* "district prescribed percentage" means:

(A) For any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, do not apply in the current school year, ~~a percentage in the 1997-98 school year that is equal to the percentage specified in the resolution under which the district~~

~~was authorized to adopt a local option budget in the 1996-97 school year, in the 1998-99 school year, a percentage that is equal to 95% of the percentage specified in the resolution under which the district was authorized to adopt a local option budget in the 1996-97 school year, in the 1999-2000 school year, a percentage that is equal to 90% of the percentage specified in the resolution under which the district was authorized to adopt a local option budget in the 1996-97 school year, in the 2000-01 school year, a percentage that is equal to 85% of the percentage specified in the resolution under which the district was authorized to adopt a local option budget in the 1996-97 school year,~~ in the 2001-02 school year and in each school year thereafter, a percentage that is equal to 80% of the percentage specified in the resolution under which the district was authorized to adopt a local option budget in the 1996-97 school year;

(B) for any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, apply in the current school year, ~~a percentage in the 1997-98 school year that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and 20% of the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, a percentage in the 1998-99 school year that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and 40% of the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, a percentage in the 1999-2000 school year that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and 60% of the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, a percentage in the 2000-01 school year that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and 80% of the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto,~~ a percentage in the 2001-02 school year and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto;

(C) for any district that was not authorized to adopt a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, apply in the current school year, ~~a percentage in the 1997-98 school year that is equal to 20% of the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, a percentage in the 1998-99 school year that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and 40% of the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, a percentage in the 1999-2000 school year that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and 60% of the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, a percentage in the 2000-01 school year that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and 80% of the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto,~~ a percentage in the 2001-02 school year and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto;

(D) for any district to which the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, applied in the 1997-98 school year and to which the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, do not apply in the current school year~~, commencing with the 1998-99 school year,~~ because an increase in the amount budgeted by

the district in its local option budget as authorized by a resolution adopted under the provisions of subsection (b) causes the actual amount per pupil budgeted by the district in the preceding school year as determined for the district under provision (1) of subsection (a) of K.S.A. 2001 Supp. 72-6444, and amendments thereto, to equal or exceed the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 2001 Supp. 72-6444, and amendments thereto, is applicable to the district's enrollment group, a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year if the resolution authorized the district to increase its local option budget on a continuous and permanent basis. If the resolution that authorized the district to increase its local option budget specified a definite period of time for which the district would retain its authority to increase the local option budget and such authority lapses at the conclusion of such period and is not renewed, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution unless the loss of the percentage of increase that was authorized by the resolution would cause the actual amount per pupil budgeted by the district to be less than the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 2001 Supp. 72-6444, and amendments thereto, is applicable to the district's enrollment group, in which case, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution plus a percentage which shall be computed for the district by the state board in accordance with the provisions of K.S.A. 2001 Supp. 72-6444, and amendments thereto, except that, in making the determination of the actual amount per pupil budgeted by the district in the preceding school year, the state board shall exclude the percentage of increase that was authorized by the resolution.

(2) (A) Subject to the provisions of subpart (B), the adoption of a local option budget under authority of this subsection shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval.

(B) In lieu of utilizing the authority granted by subpart (A) for adoption of a local option budget, the board of a district may pass a resolution authorizing adoption of such a budget and publish such resolution once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. _____,

_____ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year for a period of time not to exceed _____ years in an amount not to exceed _____% of the amount of state financial aid determined for the current school year. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. _____, _____ County, Kansas, on the _____ day of _____, ~~19~~ _____.

_____

Clerk of the board of education.

All of the blanks in the resolution shall be appropriately filled. The blank preceding the word "years" shall be filled with a specific number, and the blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in either of the blanks. The percentage specified in the resolution shall not exceed the district prescribed percentage. The resolution shall be published once in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board may adopt a local option budget. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If any district is authorized to adopt a local option budget under this subpart, but the board of such district chooses, in any school year, not to adopt such a budget or chooses, in any school year, to adopt such budget in an amount less than the amount of the district prescribed percentage of the amount of state financial aid in any school year, such board of education may so choose. If the board of any district refrains from adopting a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget, nor shall the amount authorized to be budgeted in any succeeding school year be increased by such refrainment. Whenever an initial resolution has been adopted under this subpart, and such resolution specified a lesser percentage than the district prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and subject to the same conditions, and shall be authorized to increase the percentage as specified in any such subsequent resolution for the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions is not in excess of the district prescribed percentage in any school year. The board of any district that has been authorized to adopt a local option budget under this subpart and levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew its authority to adopt a local option budget in the manner specified in this subpart or may utilize the authority granted by subpart (A). As used in this subpart, the term "authorized to adopt a local option budget" means that a district has adopted a resolution under this subpart, has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the adoption of a local option budget was approved.

(3) The provisions of this subsection are subject to the provisions of subsections (b) and (c).

(b) *The provisions of this subsection (b) shall be subject to the provisions of section 7, and amendments thereto.*

(1) The board of any district that adopts a local option budget under subsection (a) may increase the amount of such budget in each school year~~, commencing with the 1997-98 school year,~~ in an amount which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage of the amount of state financial aid determined for the district in the school year if the board of the district determines that an increase in such budget would be in the best interests of the district.

(2) No district may increase a local option budget under authority of this subsection until: (A) A resolution authorizing such an increase is passed by the board and published once in a newspaper having general circulation in the district; or (B) the question of whether the board shall be authorized to increase the local option budget has been submitted to and approved by the qualified electors of the district at a special election called for the purpose. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-

120, and amendments thereto, for the noticing, calling and holding of elections upon the question of issuing bonds under the general bond law. The notice of such election shall state the purpose for and time of the election, and the ballot shall be designed with the question of whether the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year. If a majority of the qualified electors voting at the election approve authorization of the board to increase the local option budget, the board shall have such authority. If a majority of the qualified electors voting at the election are opposed to authorization of the board to increase the local option budget, the board shall not have such authority and no like question shall be submitted to the qualified electors of the district within the nine months following the election.

(3) (A) Subject to the provisions of subpart (B), a resolution authorizing an increase in the local option budget of a district shall state that the board of education of the district shall be authorized to increase the local option budget of the district in each school year in an amount not to exceed _____% of the amount of state financial aid determined for the current school year and that the percentage of increase may be reduced so that the sum of the percentage of the amount of state financial aid budgeted under subsection (a) and the percentage of increase specified in the resolution does not exceed the state prescribed percentage in any school year. The blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in the blank. The resolution shall specify a definite period of time for which the board shall be authorized to increase the local option budget and such period of time shall be expressed by the specific number of school years for which the board shall retain its authority to increase the local option budget. No word shall be used to express the number of years for which the board shall be authorized to increase the local option budget.

(B) In lieu of the requirements of subpart (A) and at the discretion of the board, a resolution authorizing an increase in the local option budget of a district may state that the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year.

(4) A resolution authorizing an increase in the local option budget of a district shall state that the amount of the local option budget may be increased as authorized by the resolution unless a petition in opposition to such increase, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication. If no petition is filed in accordance with the provisions of the resolution, the board is authorized to increase the local option budget of the district. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether the board shall be authorized to increase the local option budget of the district. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(5) The requirements of provision (2) do not apply to any district that is continuously and permanently authorized to increase the local option budget of the district. An increase in the amount of a local option budget by such a district shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval.

(6) If any district is authorized to increase a local option budget, but the board of such district chooses, in any school year, not to adopt or increase such budget or chooses, in any school year, to adopt or increase such budget in an amount less than the amount authorized, such board of education may so choose. If the board of any district refrains from adopting or increasing a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the amount authorized to be budgeted in any succeeding school year shall not be increased by such refrainment, nor shall the authority of the district to increase its local option budget be extended by such

refrainment beyond the period of time specified in the resolution authorizing an increase in the local option budget if the resolution specified such a period of time.

(7) Whenever an initial resolution has been adopted under this subsection, and such resolution specified a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) is less than the state prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and shall be authorized to increase the percentage as specified in any such subsequent resolution. If the initial resolution specified a definite period of time for which the district is authorized to increase its local option budget, the authority to increase such budget by the percentage specified in any subsequent resolution shall be limited to the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions together with the percentage of the amount of state financial aid budgeted under subsection (a) is not in excess of the state prescribed percentage in any school year.

(8) (A) Subject to the provisions of subpart (B), the board of any district that has adopted a local option budget under subsection (a), has been authorized to increase such budget under a resolution which specified a definite period of time for retention of such authorization, and has levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew the authority to increase the local option budget subject to the conditions and in the manner specified in provisions (2) and (3) of this subsection.

(B) The provisions of subpart (A) do not apply to the board of any district that is continuously and permanently authorized to increase the local option budget of the district.

(9) As used in this subsection:

(A) "Authorized to increase a local option budget" means either that a district has held a special election under provision (2)(B) by which authority of the board to increase a local option budget was approved, or that a district has adopted a resolution under provision (2)(A), has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the authority of the board to increase a local option budget was approved.

(B) "State prescribed percentage" means 25%.

(c) To the extent the provisions of the foregoing subsections conflict with this subsection, this subsection shall control. Any district that is authorized to adopt a local option budget in the 1997-98 school year under a resolution which authorized the adoption of such budget in accordance with the provisions of this section prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(d)(1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under provision (3), amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to the general fund of the district or to any program weighted fund or categorical fund of the district.

(3) Amounts in the supplemental general fund may not be expended nor transferred to the general fund of the district for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) Any unexpended and unencumbered cash balance remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be disposed of as provided in this subsection. If the district did not receive supplemental general state aid in the school year and the board of the district determines

that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If the board of such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, transferred or expended the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the cash balance remaining in the supplemental general fund by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district. The amount remaining in the supplemental general fund may be maintained in such fund or transferred to the general fund of the district.";

And by renumbering the remaining sections accordingly;

On page 6, after line 34, by inserting the following:

"New Sec. 7. (a) As used in this section, "school district" means a school district which was the sponsoring school district of a special education cooperative during school year 2001-2002.

(b) For a school district which adopts a local option budget in an amount which equals the state prescribed percentage for school year 2002-2003, the maximum amount of a local option budget of such school district for school year 2002-2003, shall be determined by the state board as follows:

(1) Determine the amount of the local option budget of the school district under K.S.A. 72-6433, and amendments thereto, for school year 2001-2002, and subtract the amount of the local option budget of such district under K.S.A. 72-6433, and amendments thereto, for school year 2002-2003.

(2) If the difference obtained under paragraph (1) is one or more, multiply the difference by ⅔ and add the product to the maximum amount of the local option budget of the school district under K.S.A. 72-6433, and amendments thereto. The sum shall be the maximum amount of the local option budget of the district for school year 2002-2003.

(3) If the difference obtained under paragraph (1) is zero or less, the maximum amount of the local option budget of the district for school year 2002-2003, shall be the maximum amount allowed under K.S.A. 72-6433, and amendments thereto.

(c) For a school district which adopts a local option budget in an amount which equals the state prescribed percentage for school year 2003-2004, the maximum amount of a local option budget of such school district for school year 2003-2004, shall be determined by the state board as follows:

(1) Determine the amount of the local option budget of the school district under K.S.A. 72-6433, and amendments thereto, for school year 2001-2002, and subtract the amount of the local option budget of such district under K.S.A. 72-6433, and amendments thereto, for school year 2003-2004.

(2) If the difference obtained under paragraph (1) is one or more, multiply the difference by ⅓ and add the product to the maximum amount of the local option budget of the

school district under K.S.A. 72-6433, and amendments thereto. The sum shall be the maximum amount of the local option budget of the district for school year 2003-2004.

(3) If the difference obtained under paragraph (1) is zero or less, the maximum amount of the local option budget of the district for school year 2003-2004, shall be the maximum amount allowed under K.S.A. 72-6433, and amendments thereto.

(d) For a school district which adopts a local option budget in an amount which equals the district prescribed percentage for school year 2002-2003, the maximum amount of a local option budget of such school district for school year 2002-2003, shall be determined by the state board as follows:

(1) Determine the amount of the local option budget of the school district under K.S.A. 72-6433, and amendments thereto, for school year 2001-2002, and subtract the amount of the local option budget of such district under K.S.A. 72-6433, and amendments thereto, for school year 2002-2003.

(2) If the difference obtained under paragraph (1) is one or more, multiply the difference by ⅓ and add the product to the maximum amount of the local option budget of the school district under K.S.A. 72-6433, and amendments thereto. The sum shall be the maximum amount of the local option budget of the district for school year 2002-2003.

(3) If the difference obtained under paragraph (1) is zero or less, the maximum amount of the local option budget of the district for school year 2002-2003, shall be the maximum amount allowed under K.S.A. 72-6433, and amendments thereto.

Sec. 8. K.S.A. 2001 Supp. 72-7108 is hereby amended to read as follows: 72-7108. *(a)* Transfers of territory from one unified district to another unified district shall be made only as follows: ~~(a)~~

(1) Upon the written agreement of any two boards approved by the state board of education~~,~~*;* or ~~(b)~~

(2) upon order of the state board after petition therefor by one board and a public hearing thereon conducted by the state board of education.

(b) The effective date of any such transfer shall be the date of approval thereof or order therefor issued by the state board of education or the July 1 following.

(c) Notice of the public hearing on such a petition shall be given by publication by the state board of education for two consecutive weeks in a newspaper of general circulation in the unified district from which territory is to be transferred, the last publication to be not more than 10 nor less than three days prior to the date of the hearing. The notice shall state the time and place of the hearing and shall give a summary description of the territory proposed to be transferred.

(d) Prior to issuing an order, the state board shall consider the following:

(1) City boundaries and the area within three miles surrounding any city with more than one district in the area;

(2) available capacity of districts involved in the territory transfer to serve existing or additional students;

(3) condition and age of buildings and physical plant;

(4) overall costs including renovation of existing buildings versus construction;

(5) cost of bussing;

(6) food service;

(7) administration and teachers;

(8) areas of interest including access and distances for parents to travel to participate in student activities;

(9) matters of commerce, including regular shopping areas, meeting places, community activities and youth activities;

(10) districts that are landlocked with changing demographics that cause declining enrollment; and

(11) effect on students living in the area.

The foregoing shall not be deemed to limit the factors which the state board of education may consider.

(e) Within 90 days after receiving an agreement or, if a public hearing is held, within 90 days after the hearing, the state board of education shall issue its order either approving

or disapproving such transfer petition or agreement, or approving the same with such amendments as it deems appropriate.

(f) Whenever a petition for transfer of territory has been denied by the state board of education, no petition for transfer of substantially the same territory shall be received or considered by the state board of education for a period of two years.";

And by renumbering the remaining sections accordingly;

On page 6, in line 35, after "Supp." by inserting "72-978,"; also in line 35, after the comma by inserting "72-6426,"; also in line 35, after "72-6430" by inserting ", 72-6433, 72-7108";

In the title, on page 1, in line 9, by striking all after the semicolon; in line 10, by striking "tention facilities;" also in line 10, after "Supp." by inserting "72-978,"; also in line 10, after the comma, by inserting "72-6426,"; also in line 10, after "72-6430" by inserting ", 72-6433, 72-7108";

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

DWAYNE UMBARGER
JOHN VRATIL
CHRISTINE DOWNEY
Conferees on part of Senate

RALPH M. TANNER
KATHE LLOYD
BILL REARDON
Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **S Sub for HB 2094.**

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

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

Nays: Barnett, Huelskamp, Pugh.

Present and Passing: Jackson.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2247**, 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, in line 12, by striking "and approve" and inserting ", approve and revise"; in line 20, by striking "are paid"; by striking line 21; in line 22 by striking all before the semicolon and inserting "are low wage and modest wage employees as defined in K.S.A. 40-4701, and amendments thereto"; in line 31, after "out" by inserting "group"; in line 36, after "levels" by inserting "and family income";

On page 4, in line 20, by striking all after the period; by striking all in lines 21 and 22;

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

ROBERT TOMLINSON
STANLEY DREHER
NANCY A. KIRK
Conferees on part of Senate

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

Senator Praeger moved the Senate adopt the Conference Committee Report on **HB 2247.**

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

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

Nays: Brownlee, Huelskamp, Lyon.

Present and Passing: Jackson.

The Conference Committee report was adopted.

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

Senator Praeger moved the Senate adopt the Conference Committee Report on **HB 2563.**

On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 1, Absent or Not Voting 0.

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

Nays: O'Connor.

Present and Passing: Jackson.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2709**, 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 15, in line 16, by striking "sec-"; in line 17, by striking "tion 4,";

On page 41, by striking all in lines 14 through 43;

On page 42, by striking all in lines 1 through 22 and inserting the following:

"Sec. 30 K.S.A. 34-2,101 is hereby amended to read as follows: 34-2,101. The provisions of this act relating to licensing, bonding and supervision of warehouses shall not be construed to apply to any public warehouseman who is, or shall hereafter be, duly licensed under the federal warehouse act, *except that the provisions of K.S.A. 34-2,112, and amendments thereto, shall apply to all state and federally licensed warehouses*.

Sec. 31. K.S.A. 34-2,112 is hereby amended to read as follows: 34-2,112. (a) Whenever any amount of grain is received in any public warehouse from a producer and is sold by the producer ~~to the public warehouseman with~~, *or if a grain producer delivers grain for sale pursuant to an agreement with the public warehouseman for deferred payment or deferred pricing, and if upon demand for payment by the producer, the warehouseman fails to make full payment as due or makes* payment by check~~, if the check~~ *that* fails~~,~~ because of insufficient funds~~,~~ to clear the bank or other financial institution on which it is drawn within ~~10~~ *15* days after the date the check is issued *or the demand is made*, excluding Saturdays, Sundays and holidays, the sale of such amount of grain may be voided by the producer by notifying the public warehouseman in writing that the sale is void. In any such case, the public warehouseman shall include such amount of grain in the public warehouseman's daily position record and other records as an open storage obligation upon receiving such written notice voiding the sale.

(b) As used in this section, the words and phrases defined in K.S.A. 34-223 and amendments thereto shall have the meanings ascribed to them in that statute.

(c) This section shall be construed as supplemental to the statutes contained in article 2 of chapter 34 of the Kansas Statutes Annotated and amendments thereto.

Sec. 32. K.S.A. 58-204 is hereby amended to read as follows: 58-204. Any person claiming a lien as ~~aforesaid~~ *as provided in K.S.A. 58-203, and amendments thereto*, shall file in the office of the register of deeds of the county in which ~~said~~ *the* threshing or harvesting is done, a statement in writing, duly verified by ~~him or her, setting~~ *such person. Such statement shall set* forth the name of the owner or owners of the grain or grain crops, threshed or harvested, the kind of grain, the number of bushels threshed or acres harvested, the description of the land upon which ~~said~~ *such* grain or grain crop was raised, the contract price for such threshing or harvesting, or the price or value of such wages, the date of the threshing or harvesting, the amount due and the name of the claimant.

~~Said~~ *Such* statement shall be filed and entered by the register of deeds in the same manner and upon the same books as in the case of other financing statements provided for under the uniform commercial code~~, and the said~~. *The* register of deeds shall collect from the person presenting the ~~same~~ *statement*, a fee equal to the fee for filing financing statements under the uniform commercial code~~.~~. Such statement shall be filed within ~~fifteen~~ *30* days after the completion of ~~said~~ *such* threshing or harvesting or the rendering of such services~~, and in case said threshing or harvesting has begun and the work is interrupted for more than five days, such statement shall be filed within fifteen days after the beginning of such interruption~~.";

And by renumbering sections accordingly;

Also on page 42, in the repealer, in line 23, after "K.S.A." by inserting "34-2,101, 34-2,112, 58-204,"; by striking ", 84-9-201" where it appears;

On page 1, in the title, in line 17, after "transactions" by inserting "and other transactions thereunder"; in line 18, after "K.S.A." by inserting "34-2,101, 34-2,112, 58-204,"; in line 20, by striking ", 84-9-201";

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

JOHN VRATIL
DAVID ADKINS
GRETA GOODWIN
Conferees on part of Senate

GERRY RAY
LARRY L. CAMPBELL
BILL FEUERBORN
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2709.**

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

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

Present and Passing: Jackson.

The Conference Committee report was adopted.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 3011, An act providing for the financing for the comprehensive transportation program; amending K.S.A. 8-143 and 8-143j and K.S.A. 2001 Supp. 79-3492b, 79-34,118, 79-34,141 and 79-34,142 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 21, Nays 18, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brungardt, Corbin, Donovan, Downey, Emler, Gooch, Goodwin, Jenkins, Kerr, Lee, Morris, Oleen, Praeger, Schmidt, Schodorf, Teichman, Umbarger, Vratil.

Nays: Barone, Brownlee, Clark, Feleciano, Gilstrap, Haley, Harrington, Hensley, Huelskamp, Jordan, Lyon, O'Connor, Pugh, Salmans, Steineger, Taddiken, Tyson, Wagle.

Present and Passing: Jackson.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **HB 3011**. In 1999 I made a promise to improve Kansas highways, railroads and airports. I was proud then to lend my support to the ten-year comprehensive transportation program and my vote today allows me to follow through on that promise. I do not vote to raise any tax without careful consideration but I have concluded that the fuel taxes and registration fees included in this bill are a regrettable but necessary step if we are to sustain the viability of the transportation program. In 1999 we made a promise to Kansas. Those who vote for this bill honor that promise.—DAVID ADKINS

MR. PRESIDENT: I must vote no on **HB 3011**. Equity and fair treatment for all Kansans has been a benchmark and priority of mine. This bill violates those two important tenets of mine. Why does this body insist on treating cars differently than trucks and gasoline differently than diesel? Why do we raise taxes on the consumer and small business person so much more than we raise taxes on the very large trucking companies. Mr. President, if this bill passes, I hope the House will fix it so that equity and fairness prevails. When that happens, I will gladly support the conference report to restore a portion of the funding that was originally committed to the transportation program. If we are to maintain the integrity of the transportation program, we must fund it as originally committed. We cannot continue to take funding from the program and complete the projects initially committed.—JIM BARONE

Senator Feleciano requests the record to show he concurs with the "Explanation of Vote" offered by Senator Barone on **HB 3011**.

MR. PRESIDENT: Voting yes to increase taxes for the Comprehensive Transportation Plan in '99 was difficult but I did it for the sake of safety on Highway 169. To be asked to raise taxes a second time does not make sense when Kansans are collectively trimming their budgets. For FY03, KDOT will enjoy a 21% budget increase. Further tax increases are not necessary.—KARIN BROWNLEE

MR. PRESIDENT: The impact that **HB 3011** will have on the average tax-paying motorist was never heard in our 2-minute tax committee meeting. I trust very few supporters of this measure place concrete over classrooms; asphalt over academia. Nor would I. Not addressing funding streams first to meet *KANSAS' ¼ BILLION DOLLAR GAP* is a procedural misstep; and incredibly misplaced priority.

As a fiscal conservative (as opposed to those who simply prefer to "Tax and Spend" through each issue), the only tax increase that I ever supported during eight years here was the gas hike to fund this very highway program. Even though I knew then, being from a border county, that when options emerge in our neighboring state . . . like Sunday sales of alcohol, and casino gambling, and lower sales taxes on cigarettes, and even food . . . my constituents sometimes compare . . . and "Shop Abroad". I am proud of our state's deserved reputation boasting one of the finest highway systems in America. I gave an "inch" then. Today, KDOT is not wrong to ask for "The Extra Mile". But are we wrong to give it to them in light of other priorities.—DAVID HALEY

MR. PRESIDENT: I vote NO on **HB 3011**. The gas tax and motor registration fee increases in this bill come at a very bad time. Our state's economy is in a downturn with our constituents being laid off and struggling to make ends meet. Now is not the time to impose higher gas taxes and registration fees on our hard-working constituents.

In addition, this bill is very inequitable. Kansas consumers and small business people will pay a disproportionate amount of taxes and fees compared to the trucking industry. Big trucks are largely responsible for the wear and tear on our highways. They should pay their fair share.

I also oppose this bill because I believe there are current projects that need to be scaled back. In particular, I offered an amendment to reduce the size of the K-61 project from Hutchinson to McPherson. The original K-61 project would have been funded at $93 mil-

lion. The Secretary of Transportation increased it to $217 million. It makes no sense to build the project for that amount of money when we could save $124 million and use it on other well deserving projects in other regions of our state.—ANTHONY HENSLEY

MR. PRESIDENT: Enactment of **HB 3011** will spell disaster for fuel sales retailers, especially those along our borders. By making Kansas the 3rd highest taxed state in the entire nation on fuel taxes, millions of dollars in sales will be lost. Further, this mammoth gas tax increase of 4 cents and diesel of 2 cents is simply unaffordable for Kansans.—TIM HUELSKAMP

Senator Harrington requests the record to show she concurs with the "Explanation of Vote" offered by Senator Huelskamp on **HB 3011**.

MR. PRESIDENT: I vote no on **HB 3011** to increase funding for the highway plan. I voted for the Comprehensive Highway Plan when it passed. For sometime I have worked to address significant problems on K-7 in Shawnee. This began with a meeting between K-DOT and the City of Shawnee, to discuss our concerns regarding the intersection of Johnson Drive and K-7. This problem could be helped without additional funding. Due to tremendous growth along K-7 we have other needs including an interchange. These problems and concerns do not seem to receive the attention they deserve.

While I appreciate the difficult task K-DOT has in addressing transportation needs across Kansas, I must remain concerned about the needs on K-7.

I also must mention that the increased gasoline and diesel fuel tax would make our fuel tax higher than Missouri or Oklahoma.—NICK JORDAN

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1858—

RESOLUTION in memory of Earl M. Hemphill.

WHEREAS, Earl M. Hemphill, 61, of Russell and the Fire Chief for the city, died April 11 as a result of injuries sustained in the line of duty; and

WHEREAS, Chief Hemphill and other peace and fire officers were at the scene of an accident about seven miles north of Russell; while at the scene a second accident occurred involving a fire truck and a sheriff's vehicle. As a result of the second accident, Chief Hemphill sustained injuries which caused his death; and

WHEREAS, Chief Hemphill had served the Russell fire department for nearly 35 years, first as a volunteer, and for 19 years as the chief of the department; and

WHEREAS, Chief Hemphill took great pride in serving and doing his duty. He always wanted to be prepared for any kind of emergency situation, and he shared his knowledge with others. He placed great importance on having the best possible training for the department. He was more than the Fire Chief for Russell; he was a friend, a brother and father figure—a man who, when the job was done, always had time to have fun. The entire Russell community mourns his death; and

WHEREAS, Chief Hemphill graduated from Great Bend High School and served in the United States navy from 1958 to 1962. He worked as an electrician for some time before becoming a fireman. He is survived by his wife, Eileen; two sons, Lawrence and James; a daughter, Audra, and six grandchildren: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the many years of dedicated service Earl M. Hemphill gave to the city of Russell and the state of Kansas and offer our deepest sympathy to his family and friends; and

Be it further resolved: That the Secretary of the Senate provide five enrolled copies of this resolution to Mrs. Earl M. Hemphill at 603 South Main Street, Russell, Kansas 67665.

On emergency motion of Senator Lee **SR 1858** was adopted unanimously.

Senator Lee introduced Earl's wife, Mrs. Eileen Hemphill; his son Larry Hemphill and daughter-in-law Bethena; grandchildren James, Ethan and Alaura; his daughter Audra Bruggeman and son-in-law Ryan and Diane Boxberger, daughter-in-law. Also present were firefighters seated in the gallery.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1859—

RESOLUTION congratulating and commending Denis Shumate.

WHEREAS, Denis Shumate, the superintendent of the Beloit Juvenile Correctional Facility, has been selected as the first Kansan to receive the American Correctional Association's E.R. Cass Award, an award given by the organization to two correctional professionals each year. The award represents the highest honor for leadership in corrections, innovations and tenure. He was nominated for the award by Albert Murray, Commissioner of the Kansas Juvenile Justice Authority; and

WHEREAS, Mr. Shumate has given over 40 years of service to the state of Kansas. He started working at the Beloit facility in 1963 and has been the superintendent since 1966. As a member of the American Correctional Association standards committee from 1981 to 1996 he helped develop or rewrite many of the current standards of humane confinement and effective treatments. He serves on the association's board of governors and has done correctional consulting work in nearly every state in the nation. Under his leadership the Beloit Juvenile Correctional Facility was the first facility of its type in the state to be accredited by the American Correctional Association; and

WHEREAS, Mr. Shumate is an incredible asset to the state because he has been able to balance the needs of young people and the desires of the public; and

WHEREAS, Mr. Shumate holds bachelor's and master's degrees from Fort Hays State University in psychology. He and his wife, Karen, have two married sons and three grandchildren: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Denis Shumate upon being awarded the E.R. Cass Award from the American Correctional Association and for over 40 years of dedicated service to the Beloit Juvenile Correctional Facility and the State of Kansas; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Denis Shumate, Superintendent, Beloit Juvenile Correctional Facility, 1720 N. Hersey, Beloit, Kansas 67420-0427.

On emergency motion of Senator Lee **SR 1859** was adopted unanimously.

Senator Lee introduced and congratulated Denis Schumate on being chosen for the E.R. Cass Award.

Accompanying Denis were his wife, Karen Shumate; Albert Murray, Commissioner of the Kansas Juvenile Justice Authority; James Frazier, Deputy Commissioner; Bob Hedberg, Deputy Commissioner; Richard Kline, Deputy Commissioner and Angela LaSage, Secretary to Mr. Shumate for twenty-five years.

REPORT ON ENGROSSED BILLS

SB 664 reported correctly engrossed May 7, 2002.

On motion of Senator Oleen, the Senate recessed until 2:00 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing passage of **SB 618**.

Passage of **SB 436**, as amended.

The House adopts the Conference Committee Report to agree to disagree on **SB 551** and has appointed Representatives Tanner, Lloyd and Reardon as second conferees on the part of the House.

The House nonconcurs in Senate amendments to **HB 3011** and requests a conference and has appointed Representatives Hayzlett, Vickrey and M. Long as conferees on the part of the House.

The House adopts the conference committee report on **HB 2505**.

The House adopts the conference committee report on **HB 2690**.

The House adopts the conference committee report on **HB 2812**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Schmidt the Senate nonconcurred in the House amendments to **SB 436** and requested a conference committee be appointed.

The President appointed Senators Schmidt, Huelskamp and Downey as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Corbin, the Senate acceded to the request of the House for a conference on **HB 3011**.

The President appointed Senators Corbin, Donovan and Lee as conferees on the part of the Senate.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 444; HB 2315, HB 2630, HB 2752, HB 2802, HB 2996, HB 3009**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 444**, 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 15 through 43;

On page 2, by striking all in lines 1 through 7 and inserting the following:

"Section 1. K.S.A. 41-719 is hereby amended to read as follows: 41-719. (a) No person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; or

(5) on the premises of a microbrewery or farm winery, if authorized by K.S.A. 41-308a or 41-308b, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated or established by a city having a population of more than 200,000.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if such liquor is domestic *beer or* wine or wine imported under subsection (e) of K.S.A. 41-308a, and amendments thereto, and is consumed only for purposes of judging competitions. *The state fair board, in its discretion, may authorize the consumption of such alcoholic liquor on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and subject to any conditions or restrictions as the board may require.*

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.

(10) On the premises of the Kansas national guard regional training center located in Saline county, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(11) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g), (h) or (i).

(d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.

(e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.

(f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) Any city may exempt, by ordinance, from the provisions of subsection (c) any national guard armory in which such city has a leasehold interest, if the Kansas military board consents to the exemption.

(i) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(j) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than $50 or more than $200 or by imprisonment for not more than six months, or both.

Sec. 2. K.S.A. 41-719 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 alcoholic liquor; relating to consumption in certain places; amending K.S.A. 41-719 and repealing the existing section.";

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

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 444**.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Brownlee, Lyon, Salmans.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 551**, submits the following report:

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

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

RALPH M. TANNER
KATHE LLOYD
BILL REARDON
Conferees on part of House

DWAYNE UMBARGER
JOHN VRATIL
CHRISTINE DOWNEY
Conferees on part of Senate

On motion of Senator Umbarger, the Senate adopted the conference committee report on **SB 551**, and requested a new conference committee be appointed.

The President appointed Senators Umbarger, Vratil and Downey as a second Conference Committee on the part of the Senate on **SB 551**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2630**, 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, in line 29, following the period, by inserting "If the county determines that a prisoner of the county jail is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract, then the county may require the prisoner of such county jail or the provider rendering health care services to the prisoner to submit a claim for such

health care services rendered in accordance with the prisoner's policy or contract."; in line 39, following the period, by inserting "If the county determines that a prisoner of the county jail is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract, then the county may require the prisoner of such county jail or the provider rendering health care services to the prisoner to submit a claim for such health care services rendered in accordance with the prisoner's policy or contract.";

On page 2, by striking all in lines 1 through 15;

And by renumbering the remaining sections accordingly;

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

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

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2630**.

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

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

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2752**, 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, in line 38, by striking "7" and inserting "6"; by striking all in lines 42 and 43;

On page 2, by striking all in lines 1 through 6;

And by renumbering the remaining sections accordingly;

Also on page 2, following line 34, by inserting the following:

"Sec. 3. K.S.A. 2001 Supp. 21-4201 is hereby amended to read as follows: 21-4201. (a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;

(2) carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slung shot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;

(3) carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) carrying any pistol, revolver or other firearm concealed on one's person except when on the person's land or in the person's abode or fixed place of business;

(5) setting a spring gun;

(6) possessing any device or attachment of any kind designed, used or intended for use in ~~silencing~~ *suppressing* the report of any firearm;

(7) selling, manufacturing, purchasing, possessing or carrying a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger; or

(8) possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight.

(b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) manufacture of, transportation to, or sale of weapons to a person authorized under subsections (b)(1), (2) and (3) to possess such weapons.

(c) Subsection (a)(4) shall not apply to or affect the following:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) licensed hunters or fishermen, while engaged in hunting or fishing;

(3) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(5) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto; or

(6) special deputy sheriffs described in K.S.A. 2001 Supp. 19-827*, and amendments thereto,* who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a and amendments thereto.

(d) Subsections (a)(1), (6) and (7) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 *et seq.* in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) Subsection (a)(8) shall not apply to a governmental laboratory or solid plastic bullets.

(f) *Subsection (a)(6) shall not apply to a law enforcement officer who is:*

(1) Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized, regular training;

(2) designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(6); and

(3) in possession of commercially manufactured devices which are: (A) Owned by the law enforcement agency; (B) in such officer's possession only during specific operations; and (C) approved by the bureau of alcohol, tobacco and firearms of the United States department of justice.

(g) It shall be a defense that the defendant is within an exemption.

~~(g)~~ *(h)* Violation of subsections (a)(1) through (a)(5) is a class A nonperson misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a severity level 9, nonperson felony.

~~(h)~~ *(i)* As used in this section, "throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.";

Also on page 2, in line 35, by striking "is" and inserting "and 21-4201 are";

On page 1, in the title, in line 15, following "theft;" by inserting "concerning criminal use of weapons;"; in line 17, following "21-3701" by inserting "and 21-4201"; in line 18, by striking "section" and inserting "sections";

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2752**.

On roll call, the vote was: Yeas 27, Nays 13, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Goodwin, Hensley, Jackson, Jenkins, Jordan, Lee, Morris, O'Connor, Oleen, Praeger, Schmidt, Steineger, Teichman, Umbarger, Vratil, Wagle.

Nays: Brownlee, Clark, Gooch, Haley, Harrington, Huelskamp, Kerr, Lyon, Pugh, Salmans, Schodorf, Taddiken, Tyson.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2802**, 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 line 31;

On page 4, in line 22, before "$54.50" by inserting "except as provided in subsection (i), during the period commencing July 1, 2002, and ending June 30, 2005, a sum equal to"; also in line 22, after "$54.50" by inserting ", and except as provided in subsection (i), on and after July 1, 2005, a sum equal to $54"; in line 33, before "$54.50" by inserting "except as provided in subsection (i), during the period commencing July 1, 2002, and ending June 30, 2005, a sum equal to"; also in line 33, after "$54.50" by inserting ", and except as provided in subsection (i), on and after July 1, 2005, a sum equal to $54"; in line 41, by striking "$54.50" and inserting "$54"; in line 42, by striking "$54.40" and inserting ", except as provided in subsection (i), during the period commencing July 1, 2002, and ending June 30, 2005, a sum equal to $54.50, and, except as provided in subsection (i), on and after July 1, 2005, a sum equal to $54"; following line 43 by inserting:

"(i) The $.50 increase in docket fees prescribed pursuant to subsection (e), (g) or (h) for the period commencing July 1, 2002, and ending June 30, 2005, shall be in effect unless moneys are appropriated from the state treasury and enacted into law for operating expenditures for the judicial council in an amount not less than $199,721 for each fiscal year during such period. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are less than $199,721 for any fiscal year during such period, then such increase in docket fees shall be in effect. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are equal to or greater than $199,721 for any fiscal year during such

period, then the increase in docket fees prescribed pursuant to subsection (e), (g) or (h) shall not be in effect.";

On page 8, by striking all in lines 1 through 30 and inserting the following:

"Sec. 6. K.S.A. 2001 Supp. 20-367, as amended by section 1 of 2002 Senate Bill No. 477, is hereby amended to read as follows: 20-367. *(a) Except as provided in subsection (c), on July 1, 2002, and ending June 30, 2005,* of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (g) *(f)* of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the access to justice fund, a sum equal to ~~5.98%~~ *5.89%* of the remittances of docket fees; to the juvenile detention facilities fund, a sum equal to ~~3.32%~~ *3.27%* of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to ~~2.55%~~ *2.51%* of the remittances of docket fees; to the crime victims assistance fund, the state treasurer shall deposit and credit a sum equal to ~~.68%~~ *.67%* of the remittances of the docket fees; to the protection from abuse fund, the state treasurer shall deposit and credit a sum equal to ~~3.26%~~ *3.21%* of the remittances of the docket fees; to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to ~~5.17%~~ *5.09%* of the remittances of docket fees; to the dispute resolution fund, the state treasurer shall deposit and credit a sum equal to .42% of the remittances of docket fees; to the Kansas juvenile delinquency prevention trust fund, the state treasurer shall deposit and credit a sum equal to ~~1.51%~~ *1.49%* of the remittances of docket fees; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit a sum equal to ~~.25%~~ *.24%* of the remittances of docket fees; to the trauma fund, a sum equal to ~~1.79%~~ *1.76%* of the remittance of docket fees; *to the judicial council fund, a sum equal to 1.53% of the remittance of docket fees;* and to the judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit a sum equal to ~~21.70%~~ *21.37%* of the remittance of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

(b) Except as provided in subsection (c), on and after July 1, 2005, of the remittance of the balance of docket fees received by the state treasurer from clerks of the district court pursuant to subsection (f) of K.S.A. 20-362, and amendments thereto, the state treasurer shall deposit and credit to the access to justice fund, a sum equal to 5.98% of the remittances of docket fees; to the juvenile detention facilities fund, a sum equal to 3.32% of the remittances of docket fees; to the judicial branch education fund, the state treasurer shall deposit and credit a sum equal to 2.55% of the remittances of docket fees; to the crime victims assistance fund, the state treasurer shall deposit and credit a sum equal to .68% of the remittances of the docket fees; to the protection from abuse fund, the state treasurer shall deposit and credit a sum equal to 3.26% of the remittances of the docket fees; to the judiciary technology fund, the state treasurer shall deposit and credit a sum equal to 5.17% of the remittances of docket fees; to the dispute resolution fund, the state treasurer shall deposit and credit a sum equal to .42% of the remittances of docket fees; to the Kansas juvenile delinquency prevention trust fund, the state treasurer shall deposit and credit a sum equal to 1.51% of the remittances of docket fees; to the permanent families account in the family and children investment fund, the state treasurer shall deposit and credit a sum equal to .25% of the remittances of docket fees; to the trauma fund, a sum equal to 1.79% of the remittance of docket fees; and to the judicial branch nonjudicial salary initiative fund, the state treasurer shall deposit and credit a sum equal to 21.70% of the remittance of docket fees. The balance remaining of the remittances of docket fees shall be deposited and credited to the state general fund.

(c) The percentages prescribed pursuant to subsection (a) for the period commencing July 1, 2002, and ending June 30, 2005, shall be in effect unless moneys are appropriated from the state treasury and enacted into law for operating expenditures for the judicial council in an amount not less than $199,721 for each fiscal year during such period. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are less than $199,721 for any fiscal year during such period, then the percentages prescribed pursuant to subsection (a) shall be in effect. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are equal to or greater than $199,721 for any fiscal year during such period, then the percentages prescribed pursuant to subsection (b) shall be in effect.";

Also on page 8, in line 36, by striking "On and after" and inserting "Except as provided in subsection (f), on"; also in line 36, by striking "1998" and inserting "2002 and ending June 30, 2005"; following line 41 by inserting:

"Except as provided in subsection (f), on and after July 1, 2005:

Murder or manslaughter	$165.50
Other felony	146.00
Misdemeanor	111.00
Forfeited recognizance	63.00
Appeals from other courts	62.50"

On page 9, in line 8, following "$55" by inserting ", except as provided in subsection (f), commencing July 1, 2002, and ending June 30, 2005, and $54, except as provided in subsection (f), on and after July 1, 2005,"; in line 12, before the period by inserting ", except as provided in subsection (f), commencing July 1, 2002, and ending June 30, 2005, and $54, except as provided in subsection (f), on and after July 1, 2005"; in line 17, after "$55" by inserting ", except as provided in subsection (f), commencing July 1, 2002, and ending June 30, 2005, and $54, except as provided in subsection (f), on and after July 1, 2005,"; in line 20, before the period by inserting ", except as provided in subsection (f), commencing July 1, 2002, and ending June 30, 2005, and $54, except as provided in subsection (f), on and after July 1, 2005";

On page 10, following line 12 by inserting:

"(f) The $1 increase in docket fees prescribed pursuant to this section for the period commencing July 1, 2002, and ending June 30, 2005, shall be in effect unless moneys are appropriated from the state treasury and enacted into law for operating expenditures for the judicial council in an amount not less than $199,721 for each fiscal year during such period. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are less than $199,721 for any fiscal year during such period, then such increase in docket fees shall be in effect. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are equal to or greater than $199,721 for any fiscal year during such period, then the increase in docket fees prescribed pursuant to this section shall not be in effect.";

Also on page 10, following line 18, by inserting:

"Except as provided in subsection (e), on July 1, 2002, and ending June 30, 2005:";

Also on page 10, following line 35, by inserting:

"Except as provided in subsection (e), on and after July 1, 2005:

Treatment of mentally ill	$24.50
Treatment of alcoholism or drug abuse	24.50
Determination of descent of property	39.50
Termination of life estate	39.50
Termination of joint tenancy	39.50
Refusal to grant letters of administration	39.50
Adoption	39.50
Filing a will and affidavit under K.S.A. 59-618a	39.50
Guardianship	59.50
Conservatorship	59.50
Trusteeship	59.50
Combined guardianship and conservatorship	59.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto	14.50
Decrees in probate from another state	99.50
Probate of an estate or of a will	99.50
Civil commitment under K.S.A. 59-29a01 *et seq.*	24.50";

On page 11, following line 12, by inserting:

"(e) The $1 increase in docket fees prescribed pursuant to this section for the period commencing July 1, 2002, and ending June 30, 2005, shall be in effect unless moneys are appropriated from the state treasury and enacted into law for operating expenditures for the judicial council in an amount not less than $199,721 for each fiscal year during such

period. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are less than $199,721 for any fiscal year during such period, then such increase in docket fees shall be in effect. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are equal to or greater than $199,721 for any fiscal year during such period, then the increase in docket fees prescribed pursuant to this section shall not be in effect.";

Also on page 11, by striking all in lines 13 through 43;

On page 12, by striking all in lines 1 through 16 and inserting the following:

"Sec. 9. K.S.A. 2001 Supp. 60-2001, as amended by section 2 of 2002 Senate Bill No. 477, is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of *$106, except as provided in subsection (e), commencing July 1, 2002, and ending June 30, 2005, and* $105 *, except as provided in subsection (e), on and after July 1, 2005,* to the clerk of the district court.

(b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than $3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of $3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, _____ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) *Disposition of docket fee.* The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

(e) The $1 increase in docket fees prescribed pursuant to this section for the period commencing July 1, 2002, and ending June 30, 2005, shall be in effect unless moneys are appropriated from the state treasury and enacted into law for operating expenditures for the judicial council in an amount not less than $199,721 for each fiscal year during such period. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are less than $199,721 for any fiscal year during such period, then such increase in docket fees shall be in effect. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are equal to or greater than $199,721 for any fiscal year during such period, then the increase in docket fees prescribed pursuant to this section shall not be in effect.";

Also on page 12, in line 27, after "$27" by inserting ", except as provided in subsection (c), commencing on July 1, 2002, and ending June 30, 2005, and $26, except as provided in subsection (c), on and after July 1, 2005,"; in line 28, after "$47" by inserting ", except as provided in subsection (c), commencing on July 1, 2002, and ending June 30, 2005, and $46, except as provided in subsection (c), on and after July 1, 2005,"; following line 32 by inserting:

"(c) The $1 increase in docket fees prescribed pursuant to this section for the period commencing July 1, 2002, and ending June 30, 2005, shall be in effect unless moneys are appropriated from the state treasury and enacted into law for operating expenditures for the judicial council in an amount not less than $199,721 for each fiscal year during such period. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are less than $199,721 for any fiscal year during such period, then such increase in docket fees shall be in effect. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are equal to or greater than $199,721 for any fiscal year during such period, then the increase in docket fees prescribed pursuant to this section shall not be in effect.";

Also on page 12, in line 36, after "$27" by inserting ", except as provided in subsection (c), commencing on July 1, 2002, and ending June 30, 2005, and $26, except as provided in subsection (c), on and after July 1, 2005,"; in line 37, after "$47" by inserting ", except as provided in subsection (c), commencing on July 1, 2002, and ending June 30, 2005, and $46, except as provided in subsection (c), on and after July 1, 2005,"; in line 39, after "$77" by inserting ", except as provided in subsection (c), commencing on July 1, 2002, and ending June 30, 2005, and $76, except as provided in subsection (c), on and after July 1, 2005,";

On page 13, following line 3, by inserting:

"(c) The $1 increase in docket fees prescribed pursuant to this section for the period commencing July 1, 2002, and ending June 30, 2005, shall be in effect unless moneys are appropriated from the state treasury and enacted into law for operating expenditures for the judicial council in an amount not less than $199,721 for each fiscal year during such period. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are less than $199,721 for any fiscal year during such period, then such increase in docket fees shall be in effect. If the moneys appropriated from the state treasury and enacted into law for operating expenditures for the judicial council are equal to or greater than $199,721 for any fiscal year during such period, then the increase in docket fees prescribed pursuant to this section shall not be in effect.";

Also on page 13, in line 5, after the period by inserting "All moneys credited to the judicial council fund shall be expended for operating expenditures for the judicial council."; following line 10, by inserting the following:

"Sec. 13.

JUDICIAL COUNCIL

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2003, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures shall not exceed the following:

Judicial council fund ..... No limit";

And by renumbering the remaining sections accordingly;

Also on page 13, in line 12, following "20-367," by inserting "as amended by section 1 of 2002 Senate Bill No. 477,"; in line 13, following "2001," by inserting "as amended by section 2 of 2002 Senate Bill No. 477,";

In the title, on page 1, in line 15, before "amend-", by inserting "making appropriations for the judicial council for the fiscal year ending June 30, 2003;"; in line 17, following "20-367," by inserting "as amended by section 1 of 2002 Senate Bill No. 477,"; also in line 17, following "60-2001," by inserting "as amended by section 2 of 2002 Senate Bill No. 477,";

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

JOHN VRATIL
DAVID ADKINS
GRETA GOODWIN
Conferees on part of Senate

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2802.**

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Harrington, Jackson, Jenkins, Jordan, Kerr, Lee, Morris, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Feleciano, Gooch, Haley, Hensley, Huelskamp, Lyon, O'Connor.

The Conference Committee report was adopted.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2030**, as amended by House Committee, be amended on page 1, by striking all in lines 16 through 43;

By striking all on pages 2 through 19 and inserting the following:

"Section 1. (a) "Establishment" means a business that:

(1) Has at least $100,000,000 in existing annual gross compensation paid to jobs located in Kansas, according to reports filed with the secretary of human resources, for the previous three years;

(2) has an average annual gross compensation of at least $40,000 paid per existing employee;

(3) currently has at least $200,000,000 total investment in Kansas;

(4) intends to add investment for modernization and retooling of at least $50,000,000; but not more than $125,000,000 within five years of contracting with the department of commerce and housing; and

(5) is described by north American industrial classification code number 326211, tire manufacturing.

(b) "Gross compensation" means wages and benefits paid to or on behalf of employees receiving wages.

(c) "Secretary" means the secretary of commerce and housing.

Sec. 2. The Kansas development finance authority is hereby authorized to issue obligations in a principal amount not to exceed $20,000,000 upon certification by the department of commerce and housing that an establishment has entered into a contract with the secretary pursuant to this act. The authority shall issue such obligations in an amount of $1 for every $6.25 the establishment shall invest as required pursuant to section 1, and amendments thereto. The maximum maturity of bonds issued pursuant to this act shall be 15 years. Such obligations shall be issued within 60 days of the date by which the secretary receives the signed contract required pursuant to section 3, and amendments thereto. The proceeds of such issuance shall be used by the authority for acquiring or improving real property or acquiring or replacing personal property for the benefit of an establishment. Subject to appropriation, the debt service on such obligations shall be paid by the transfer of an amount not to exceed 75% of the revenue realized from payments by employees of the establishment pursuant to K.S.A. 79-3294, *et seq.*, make investments in the state as required pursuant to subsection (a) of section 1, and amendments thereto.

Sec. 3. An establishment shall enter into a contract with the secretary in which in return for incentive payments authorized pursuant to section 2, and amendments thereto, the establishment agrees that, in the event that insufficient revenue is realized by the payments made pursuant to section 2, and amendments thereto, the establishment shall be responsible

for the debt services on obligations issued pursuant to this act. The contract shall include a specified amount which the establishment agrees to invest in the state and shall be the basis for determining the amount of obligations issued pursuant to section 2, and amendments thereto. In the event the establishment invests a lesser amount the establishment shall repay any amount received at a ratio of $1 for each $6.25 of the difference between the amount pledged and the amount actually invested. The contract shall further specify that, in the event the rate of taxation set forth in the Kansas income tax act is abolished and insufficient revenue is realized to meet the debt service on the obligations issued pursuant to this act, the establishment shall not be responsible for any amount of shortfall attributable to such reduction in rates. The contract may specify such additional terms and conditions as may be necessary to further purposes of this act.

Sec. 4. The establishment shall not be allowed credits pursuant to K.S.A. 79-32,160a, and amendments thereto, for any amount of investment related to or computed on the basis of any investment of the proceeds of obligations issued pursuant to this act.

Sec. 5. 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 all after "ACT"; by striking all in lines 12 and 13 and inserting "providing incentives for certain businesses; prescribing duties and authorities for the Kansas development finance authority and the secretary of commerce and housing relating thereto."; and the bill be passed as amended.

Committee on **Education** recommends **Senate Substitute for HB 2051** be amended by substituting a new bill to be designated as "Substitute for Senate Substitute for HOUSE BILL No. 2051," as follows:

"Substitute for Senate Substitute for HOUSE BILL No. 2051
By Committee on Education

"AN ACT concerning school district finance; relating to base state aid per pupil; amending K.S.A. 2001 Supp. 72-6410 and repealing the existing section.";

and the substitute bill be passed.

REPORT ON ENGROSSED BILLS

SB 364, SB 400; H Sub 430 reported correctly engrossed May 7, 2002.

COMMITTEE OF THE WHOLE

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

On motion of Senator Vratil the following report was adopted:

Recommended **HB 3009** be amended by adoption of the committee amendments, and the bill be passed as amended.

HB 2996 be amended by motion of Senator Clark on page 3, in line 14, after "canvass" by inserting "in one or more counties in the district", and **HB 2996** be passed as amended.

HB 2315 be amended by adoption of the committee amendments, be further amended by motion of Senator Brungardt as amended by Senate Committee, on page 1, after line 17, by inserting the following:

"New Section 1. Sections 1 to 18, inclusive, shall be known and may be cited as the naturopathic doctor registration act.

New Sec. 2. As used in sections 1 to 18, inclusive and amendments thereto:

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

(b) "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: (1) 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 (i) of section 2, and amendments thereto; (2) health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, barrier contraceptive devices; (3) 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; (4) noninvasive physical examinations, venipuncture to obtain blood for clinical laboratory tests and oroficial examinations, excluding endoscopies; (5) minor office procedures; and (6) 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.

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

(d) "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.

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

(f) "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.

(g) "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.

(h) "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 hydrotheraphy, naturopathic musculoskeletal technique and therapeutic exercise.

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

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

(k) "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.

New Sec. 3. (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 8, 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.

New Sec. 4. (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 5 and amendments thereto.

(3) Fees: The applicants shall pay to the board all applicable fees established under section 7 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.

New Sec. 5. 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.

New Sec. 6. (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 7 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 7 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.

New Sec. 7. (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.

New Sec. 8. (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 7 and amendments thereto.

New Sec. 9. (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 7 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 7 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.

New Sec. 10. 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.

New Sec. 11. (a) 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 (a) shall constitute a class B person misdemeanor.

(b) 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.

New Sec. 12. 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.

New Sec. 13. 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:

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

(b) 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.

New Sec. 14. (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.

New Sec. 15. 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.

New Sec. 16. 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.

New Sec. 17. 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.

New Sec. 18. 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.";

And by renumbering sections accordingly;

Also on page 1, in line 19, by striking "10" and inserting "28"; in line 20, by striking "12" and inserting "30";

On page 3, in line 9, by striking "11" and inserting "29";

On page 16, in line 14, after "K.S.A." by inserting "65-2872a,";

On page 1, in the title, in line 12, after "concerning" by inserting "the state board of healing arts; enacting the naturopathic doctor registration act; concerning the licensure of";

also in line 12, by striking "licensure thereof;"; in line 15, before the period, by inserting "; also repealing K.S.A. 65-2872a";, and **HB 2315** be passed as further amended.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a ⅔ constitutional majority, and **HB 2315, HB 2996, HB 3009** were advanced to Final Action and roll call.

HB 2315, An act concerning the state board of healing arts; enacting the naturopathic doctor registration act; concerning the licensure of occupational therapists; amending 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, 65-4915, 65-4921, 65-5408 and 65-5409 and repealing the existing sections; also repealing K.S.A. 65-2872a.

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

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

Nays: Huelskamp.

The bill passed, as amended.

HB 2996, An act concerning elections; relating to the time of canvass by the county board of canvassers; amending K.S.A. 25-3104 and K.S.A. 2001 Supp. 25-3107 and repealing the existing sections.

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

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

The bill passed, as amended.

HB 3009, An act concerning state agencies; relating to certain payroll deductions; state property operations, parking, leasing and surplus real estate; amending K.S.A. 75-4506, 75-4508, 75-4510a, 75-5521, 75-5523, 75-5530 and 75-5531 and K.S.A. 2001 Supp. 75-5525 and 75-6609 and repealing the existing sections.

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

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

The bill passed, as amended.

On motion of Senator Oleen the Senate adjourned until 9:30 a.m., Wednesday, May 8, 2002.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

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