

Journal of the Senate

SEVENTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, May 8, 2002—9:30 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,

When the time is getting shorter
And there's still a lot to do,
We wonder what it's going to take
To ever get us through.

And we know it's not a question
Of IF it will get done.
The question that we are faced with
Is WHEN it will get done.

And WHEN is not the only question
With which we have to deal.
WHAT it is we're going to do
Is a question that's quite real.

And there is another question
Worthy to be mentioned:
HOW we're going to do it
Merits our attention.

And there's still another question
We should answer if we try:
It's the most important one:
It's the question, WHY?

WHAT we do and HOW we do it
Are the things we do here.
But what our motives are, O God,
Is what You want to hear.

Is it because it is required,
Or just to get us re-elected?
Or so we can say, "We won!"
Or just do what is expected?

When WHAT we did and HOW we did it
End with Sine Die,
Let it be because "WE CARE"
Answers the question, "WHY?"

My prayer is in Jesus' Name, O God,
AMEN

MESSAGE FROM THE HOUSE

Announcing, the House nonconcur in Senate amendments to **HB 2996** and requests a conference and has appointed Representatives T. Powell, Powers and Wilson as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 3009** and requests a conference and has appointed Representatives Wilk, Neufeld and Nichols as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 436** and has appointed Representatives Johnson, Dahl and Thimesch as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **HB 3009**.

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

REPORT ON ENGROSSED BILLS

SB 444 reported correctly engrossed May 7, 2002.

REPORT ON ENROLLED BILLS

SB 403, SB 458; H Sub for SB 486; Sub for SB 513 reported correctly enrolled, properly signed and presented to the Governor on May 7, 2002.

On motion of Senator Oleen, the Senate recessed until 3:30 p.m.

AFTERNOON SESSION

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

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF HEALTH AND ENVIRONMENT
 Division of Environment
 Bureau of Water
 Municipal Programs Section
 April 30, 2002

As required by law, Clyde D. Graeber, Secretary of the Kansas Department of Health and Environment, submitted the final attachments to the Kansas Water Pollution Control Revolving Loan Fund to the Annual Report for FFY 2001.

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing the House concurs in Senate amendments to **HB 2772** and requests the Senate to return the bill.

ORIGINAL MOTION

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2996**.

The President appointed Senators Allen, O'Connor and Gilstrap 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: **HB 2009; S Sub for HB 2075; HB 2078, HB 2175; S Sub for HB 2621; HB 2795.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2075**, 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. 2075, as follows:

On page 1, in line 27, by striking "or" where it appears for the last time; in line 31, by striking the period and inserting: "which is a dwelling; or

(3) accidentally, by means of fire or explosive as a result of manufacturing or attempting to manufacture a controlled substance in violation of K.S.A. 65-4159, and amendments thereto, damaging any building or property which is not a dwelling.";

Also on page 1, in line 32, by striking the comma where it appears for the last time and inserting "or"; in line 33, by striking "or (a)(2)"; in line 35, by striking "or" and inserting a comma; also in line 35, after "(a)(1)(D)" by inserting "or (a)(3)"; after line 35, by inserting: "(3) Arson, as described in subsection (a)(2), is a severity level 7, person felony.";

Also on page 1, by striking all in lines 36 through 43;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 33;

And by renumbering sections accordingly;

On page 9, by striking all in lines 19 through 43;

By striking all on page 10;

On page 11, by striking all in lines 1 through 22;

And by renumbering sections accordingly;

Also on page 11, in line 23, by striking "60-4117,"; also in line 23, by striking the comma after "65-4152" and inserting "and"; in line 24, by striking "and 74-9501" and inserting "are";

On page 1, in the title, in line 10, by striking "en-"; by striking all in line 11; in line 12, by striking "duties,"; also in line 12, by striking "60-4117,"; in line 13, by striking the comma after "4152" and inserting "and"; also in line 13, by striking "and 74-9501";

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 **S Sub for HB 2075**.

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

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

Nays: Gooch, Haley, Pugh.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2078**, 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 30, by striking "If" and inserting "Except as provided further, if"; in line 36, following the period, by inserting "If the merchant recovers the merchandise in merchantable condition, the civil penalty against the parent, as provided in this subsection, shall be \$50.";

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 2078**.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Goodwin, 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.

Nays: Gooch, Haley.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2175**, submits the following report:

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

On page 3, in line 13, by striking "2000" and inserting "2001"; in line 21, by striking "Thereafter" and inserting "After such payment of the fee and renumbering of the case"; by striking all of lines 35 through 43;

By striking all of page 4;

On page 5, by striking all of lines 1 through 20; before line 21, by inserting the following: "Sec. 2. K.S.A. 2001 Supp. 61-2803 is hereby amended to read as follows: 61-2803. The supreme court of this state shall adopt rules to govern the electronic filing of court matters and the storage of and access by the public to the same; ~~to govern the form of pleadings, other documents to be filed~~ and such other matters as is necessary under the code of civil procedure for limited actions.

Sec. 3. K.S.A. 2001 Supp. 61-2907 is hereby amended to read as follows: 61-2907. (a) The petition shall be served on the defendant in accordance with the provisions of K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto.

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

(1) By delivering a copy;

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

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

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

Sec. 4. K.S.A. 2001 Supp. 61-3002 is hereby amended to read as follows: 61-3002. (a) The summons shall be issued by the clerk; *and* dated the day it is issued ~~and contain the information set forth in the rules to be adopted by the supreme court of this state.~~ The summons shall state the time when the law requires the defendant to appear or file an answer in response to the petition, and shall notify such defendant that in case of such defendant's failure to appear or file an answer, judgment by default will be rendered against such defendant for the relief demanded in the petition. ~~The summons shall be in substantially the form set forth in the rules to be adopted hereunder by the supreme court.~~

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

Sec. 5. K.S.A. 2001 Supp. 61-3003 is hereby amended to read as follows: 61-3003. (a) Methods of service of process within this state, except service by publication, are described in this section. Service of process outside the state shall be made in substantial compliance with the applicable provisions of K.S.A. 60-308, and amendments thereto.

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

(c) Service by return receipt delivery.

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

(2) The sheriff, party or party's attorney shall cause a copy of the process and petition or other document to be placed in a sealed envelope addressed to the person to be served in accordance with K.S.A. 2001 Supp. 61-3004, and amendments thereto, with postage or other delivery fees prepaid, and the sealed envelope placed in the custody of the person or entity effecting delivery.

(3) Service of process shall be considered obtained under K.S.A. 2001 Supp. 61-2902, and amendments thereto, upon the delivery of the sealed envelope.

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

(5) If the sealed envelope is returned with an endorsement showing refusal to accept delivery, the sheriff, party or the party's attorney may send a copy of the process and petition or other document by first-class mail addressed to the party to be served, or may elect other methods of service. If mailed, service shall be considered obtained three days after the mailing by first-class mail, postage prepaid, which shall be evidenced by a certificate of service filed with the clerk. If the unopened envelope sent first-class mail is returned as undelivered for any reason, the sheriff, party or party's attorney shall file an amended certificate of service with the clerk indicating nondelivery, and service by such mailing shall

not be considered obtained. Mere failure to claim return receipt delivery is not refusal of service within the meaning of this subsection.

(d) Personal and residence service.

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

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

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

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

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

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

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

(1) First class mail. Process may be sent to a person by first-class mail by placing a copy of the process and petition or other document to be served in an envelope addressed to the person to be served in accordance with K.S.A. 2001 Supp. 61-3004, and amendments thereto, at such person's last known address. The envelope used for such service shall be addressed to the person in accordance with K.S.A. 2001 Supp. 61-3004, and amendments thereto, and shall contain adequate postage. Such envelope shall be sealed and placed in the United States mail. Service by first-class mail shall be complete when the envelope is placed in the mail unless returned undelivered. Service shall be considered obtained upon the mailing by first-class mail unless returned undelivered.

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

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

Sec. 6. K.S.A. 2001 Supp. 61-3302 is hereby amended to read as follows: 61-3302. (a) A judgment may be entered by master or other journal entry or judgment form approved by a judge. The judgment shall be effective from the date the journal entry or judgment form is filed with the clerk of the court. ~~The form of the journal entry or judgment form shall be set forth in the rules of the supreme court of this state.~~

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

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

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

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

Sec. 7. K.S.A. 2001 Supp. 61-3505 is hereby amended to read as follows: 61-3505. This section shall apply if the garnishment is to attach intangible property other than earnings of the judgment debtor.

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

~~(b)~~ The order of garnishment and the appropriate form for the garnishee's answer shall be served on the garnishee in the same manner as process is to be served pursuant to K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto, except that the garnishee may be served by any means provided under K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto, at the garnishee's business or office location and this shall be considered proper service. ~~Two copies~~ A copy of the answer form shall be served if the garnishment order is not served electronically. If the order is served prior to a judgment, the order shall also be served on the judgment debtor, if the judgment debtor can be found, except that the order shall not be served on the judgment debtor until after service has been made on the garnishee. Failure to serve the judgment debtor shall not relieve the garnishee from liability under the order.

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

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

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

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

credits or indebtedness held by the garnishee, the fee shall be deducted from the amount withheld.

Sec. 8. K.S.A. 2001 Supp. 61-3507 is hereby amended to read as follows: 61-3507. This section shall apply if the garnishment is to attach earnings of the judgment debtor.

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

~~(b)~~ The order of garnishment and the appropriate form for the garnishee's answer shall be served on the garnishee in the same manner as process is to be served pursuant to K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto, except that the garnishee may be served by any means provided under K.S.A. 2001 Supp. 61-3001 through 61-3006, and amendments thereto, at the garnishee's business or office location and this shall be considered proper service. ~~Two copies~~ A copy of the answer form shall be served if the garnishment order is not served electronically. If the party having requested the garnishment is notified by the garnishee that the judgment debtor has never been employed by the garnishee or the judgment debtor's employment has been terminated, the party seeking the garnishment shall forthwith file a release with the clerk of the court of such garnishment.

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

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

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

Sec. 9. K.S.A. 2001 Supp. 61-3508 is hereby amended to read as follows: 61-3508. (a) Immediately following the time the order of garnishment is served on the garnishee, the party seeking the garnishment shall send a notice to the judgment debtor in any reasonable manner, notifying the judgment debtor:

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

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

(3) of the judgment debtor's right to a hearing on such claim or objection. The notice shall be substantially in compliance with the form set forth in the rules of the supreme court of this state, and shall contain a description of the exemptions that are applicable to gar-

nishments and the procedure by which the judgment debtor can assert any claim of exemption. ~~A copy of the notice form shall be served on the garnishee with the order of garnishment.~~

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

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

Sec. 10. K.S.A. 2001 Supp. 61-3509 is hereby amended to read as follows: 61-3509. This section shall apply if the garnishment is to attach intangible property other than earnings of the judgment debtor.

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

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

Sec. 11. K.S.A. 2001 Supp. 61-3510 is hereby amended to read as follows: 61-3510. This section shall apply if the garnishment is to attach earnings of the judgment debtor.

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

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

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

Sec. 12. K.S.A. 2001 Supp. 61-3513 is hereby amended to read as follows: 61-3513. This section shall apply if the garnishment is to attach earnings of the judgment debtor. If no reply is made to the answer of garnishee within 10 days following the date the garnishee has ~~completed~~ sent the *completed* answer to the judgment creditor and judgment debtor, the garnishee shall promptly thereafter pay the earnings withheld as indicated on the answer to all judgment creditors designated on the answer in the amount due each as indicated on

the answer, unless the garnishee receives prior to such payment an order of the court to the contrary. If any judgment creditor receives more than they are entitled to, that judgment creditor shall promptly pay the excess amount pro-rata to the other judgment creditors designated on the answer, or if no such other judgment creditors are designated, the judgment creditor shall promptly pay the excess amount to the judgment debtor.

Sec. 13. K.S.A. 2001 Supp. 61-3604 is hereby amended to read as follows: 61-3604. (a) As an aid to the collection of a judgment, the judgment creditor is entitled to have an order for a hearing in aid of execution issued by the court at any time after 10 days after judgment. There is no requirement that an execution first be issued and returned unsatisfied. No application for such order needs to be filed except as specially required in this section.

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

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

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

Sec. 14. K.S.A. 2001 Supp. 61-3606 is hereby amended to read as follows: 61-3606. If a person fails to appear in response to an order for a hearing in aid of execution, or if a person who has been subpoenaed to testify at the hearing fails to appear or to testify concerning anything about which the person can lawfully be questioned, the court shall issue a citation for contempt to that person providing that the person must ~~either:~~

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

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

Sec. 15. K.S.A. 2001 Supp. 61-3608 is hereby amended to read as follows: 61-3608. (a) If a person fails to comply with the ~~either of the~~ requirements of K.S.A. 2001 Supp. 61-3606, and amendments thereto, or if it appears to the court that the person is hiding to avoid the process of the court or is about to leave the county for that purpose, the court may issue a bench warrant commanding the sheriff to whom it is directed to bring such person before the court to answer for contempt. The bench warrant does not need to be supported by affidavit or other verification. The court may make such orders concerning the release of the person pending the hearing as the court deems proper.

(b) When such person is brought before the court, a hearing shall be held to determine if the person should be punished for contempt. If the court determines that the person is guilty of contempt, the court may punish the person by a fine in an amount to be set by the court or by imprisonment in the county jail for a period of not to exceed 30 days, or both.

The court may also order the person guilty of contempt to pay the reasonable attorney fees incurred by the judgment creditor in the filing of the bench warrant and the hearing thereon.

Sec. 16. K.S.A. 2001 Supp. 61-3803 is hereby amended to read as follows: 61-3803. Before a lawsuit to evict a person pursuant to K.S.A. 2001 Supp. 61-3801 through 61-3808, and amendments thereto, is filed, the party desiring to file such lawsuit shall deliver to the other party a notice to leave the premises for which possession is sought. The notice shall be delivered at least three days before commencing the lawsuit, by leaving a written copy with the other party or by leaving a copy thereof with any person over the age of 12 years residing on the premises described in such notice, or if no such person is found upon the premises, by posting a copy of such notice in a conspicuous place thereon, or by mailing a copy of the notice to the other party at the address of the premises described in the notice. The three day notice period provided for in this section shall be computed as three consecutive 24-hour periods to commence at the time the notice is delivered, posted or mailed. If the notice is mailed, an additional two days from the date of mailing shall be allowed for the person to leave the premises before the lawsuit is filed. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation of the notice period. ~~The form of the notice shall be substantially in the form set forth in the rules of the supreme court of this state.~~ *The notice may be combined with any notice provided for in K.S.A. 58-2540, et seq., and amendments thereto.*

Sec. 17. K.S.A. 2001 Supp. 61-3804 is hereby amended to read as follows: 61-3804. The petition shall describe the premises for which possession is sought and why the plaintiff is seeking possession. If there is rent due for possession of the premises, the petition may include a request for judgment for that amount or the plaintiff may bring a subsequent lawsuit for that amount. ~~The form of the petition shall be set forth in the rules of the supreme court of this state.~~

Sec. 18. K.S.A. 2001 Supp. 61-3805 is hereby amended to read as follows: 61-3805. ~~The form of summons in lawsuits under K.S.A. 2001 Supp. 61-3801 through 61-3808, and amendments thereto, shall be the same as for other lawsuits filed under the code of civil procedure for limited actions.~~ The time stated in the summons requiring the defendant to appear in response to the petition shall be determined by the court. Such time shall be not less than three nor more than 14 days after the date the summons is issued.

Sec. 19. K.S.A. 2001 Supp. 61-3808 is hereby amended to read as follows: 61-3808. (a) If judgment is entered against the defendant for possession of the subject premises, the court shall issue, at the request of the plaintiff, a writ of restitution which shall direct anyone who is authorized to serve process and who is named in the writ to place the plaintiff in possession of the premises described in the writ. ~~The form of the writ shall be set forth in the rules of the supreme court of this state.~~

(b) The writ of restitution shall be executed within 10 days after the person named in the writ receives it, and that person shall file a return as with other writs under the code of civil procedure for limited actions. The person serving the writ may use such reasonable force as is necessary to execute the writ.

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

And by renumbering the remaining sections accordingly;

Also on page 5, in line 21, by striking “K.S.A. 60-4001 and”; also in line 21, by striking “2000” and inserting “2001”; in line 22, after “60-2418” by inserting “, 61-2803, 61-2906, 61-2907, 61-3002, 61-3003, 61-3302, 61-3401, 61-3505, 61-3507, 61-3508, 61-3509, 61-3510, 61-3513, 61-3604, 61-3606, 61-3608, 61-3803, 61-3804, 61-3805, 61-3808 and 61-4105”;

In the title, on page 1, in line 12, by striking all after the semicolon where it first appears; in line 13, by striking all before “amending”; also in line 13, by striking “K.S.A. 60-4001 and”; in line 14, by striking “2000” and inserting “2001”; also in line 14, after “60-2418” by inserting “, 61-2803, 61-2907, 61-3002, 61-3003, 61-3302, 61-3505, 61-3507, 61-3508, 61-3509, 61-3510, 61-3513, 61-3604, 61-3606, 61-3608, 61-3803, 61-3804, 61-3805 and 61-3808”;

Also in the title, on page 1, in line 15, before the period by inserting “; also repealing K.S.A. 2001 Supp. 61-2906, 61-3401 and 61-4105”

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 2175**.

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, 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.

Nays: Gooch.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2621**, 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. 2621, as follows:

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

“Sec. 4. K.S.A. 2001 Supp. 74-4927 is hereby amended to read as follows: 74-4927. (1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall not be payable until the member has been prevented from carrying out each and every duty pertaining to the member's employment as a result of sickness or injury for a period of 180 days and the annual benefit shall not exceed an amount equal to 66 $\frac{2}{3}$ % of the member's annual rate of compensation on the date such disability commenced and shall be payable in equal monthly installments. In the event that a member's compensation is not fixed at an annual rate but on an hourly, weekly, biweekly, monthly or any other basis than annual, the board shall prescribe by rule and regulation a formula for establishing a reasonable rate of annual compensation to be used in determining the amount of the death or long-term disability benefit for such member. Such plan shall provide that:

(A) For deaths occurring prior to January 1, 1987, the right to receive such death benefit shall cease upon the member's attainment of age 70 or date of retirement whichever first occurs. The right to receive such long-term disability benefit shall cease (i) for a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs, (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, upon the date that such member attains age 70, or upon the date of such member's retirement, whichever first occurs, (iii) for all disabilities incurred on or after January 1, 1987, for a member who becomes eligible for such benefit at or after attaining age 70, the date that such member has received such benefit for a period of 12 months or upon the date of such member's retirement, whichever first occurs, and (iv) for all disabilities incurred on or after January 1, 1987, for a member who becomes eligible for such benefit at or after attaining age 75, the date that such member has received such benefit for a period of six months or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under subsection (3) of K.S.A. 74-4916 and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount which a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. Such long-term disability payments shall accrue from the later of the 181st day of total disability or the first day upon which the member ceases to draw compensation from the employer. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is given. In no case shall a member who is entitled to receive long-term disability benefits receive less than \$50 per month. As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

(D) On and after April 30, 1981, the board may provide under the plan for the continuation of long-term disability benefit payments to any former member who forfeits the entitlement to continued service credit under the retirement system or continued assistance in the purchase of retirement annuities under K.S.A. 74-4925 and amendments thereto and to continued long-term disability benefit payments and continued death benefit coverage, by reason of the member's withdrawal of contributions from the retirement system or the repurchase of retirement annuities which were purchased with assistance received under K.S.A. 74-4925 and amendments thereto. Such long-term disability benefit payments may be continued until such individual dies, attains age 65 or is no longer disabled, whichever occurs first.

(E) Any visually impaired person who is in training at and employed by a sheltered workshop for the blind operated by the secretary of social and rehabilitation services and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such disability. Such member's final average salary shall be computed in accordance with subsection (17) of K.S.A. 74-4902 and amendments thereto except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's final average salary shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount

equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's current annual rate shall be adjusted upon death by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions which are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. Except as otherwise provided by this subsection, each participating employer shall appropriate and pay to the

system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to .6% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on April 1, 2000, and ending on December 31, 2001, *or for the period commencing July 1, 2002, and ending December 31, 2002.*

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of subsection (4) of K.S.A. 74-4920 and amendments thereto shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees which should include term death benefits for the person's period of active state employment regardless of age, but in no case, on and after January 1, 1989, shall the maximum allowable coverage be less than \$200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection (6) and shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection (6).

(7) Any employer other than the state of Kansas which is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 next following application. Such optional death benefit plan shall not be available for employees of employers specified under this subsection until after July 1, 1988.

Sec. 5. K.S.A. 2001 Supp. 74-4927b is hereby amended to read as follows: 74-4927b. (1) For the purposes of providing the "insured death benefit" and "insured disability benefit" as prescribed in K.S.A. 74-4927, and amendments thereto, *and for the purposes of providing the "accidental death benefit" as prescribed in subsection (2) of K.S.A. 74-4916, and amendments thereto*, to those members of the faculty and other persons employed by educational institutions under the management of the state board of education who are receiving assistance in the purchase of retirement annuities as provided in K.S.A. 74-4925, and amendments thereto, the term "member" as used in *subsection (2) of K.S.A. 74-4916, and amendments thereto*, and in K.S.A. 74-4927, and amendments thereto, shall include the aforementioned members of the faculty and other persons employed by educational institutions under the management of the state board of education and who are receiving such assistance.

(2) Each institution under the state board of education furnishing such assistance shall pay to the Kansas public employees retirement system in such manner as the board of trustees shall prescribe each payroll period an amount sufficient to pay the employer's contribution to the group insurance reserve as provided in K.S.A. 74-4927, and amendments thereto, *and an amount sufficient to pay the amount of the employer's contribution attributable to the accidental death benefit as prescribed in subsection (2) of K.S.A. 74-4916, and amendments thereto*. Subsection (2) of K.S.A. 74-4932, and amendments thereto, shall also apply in determining such contributions and benefits.

(3) Each such institution under the state board of education shall maintain a file of the beneficiaries named by the persons covered under the provisions of this act in the form and manner as prescribed by the board of trustees.

(4) In the event that a member of the faculty or other person as herein defined becomes eligible for the insured disability benefit, the respective educational institutions under the board of education hereinbefore described shall continue to provide the assistance including the payment of employers and employees contributions in the purchase of the retirement annuities provided in K.S.A. 74-4925, and amendments thereto, until the date of retirement.

Sec. 6. K.S.A. 2001 Supp. 74-4927f is hereby amended to read as follows: 74-4927f. (a) For the purposes of providing the "insured death benefit" as prescribed in K.S.A. 74-4927 and amendments thereto, to all persons who are members of the retirement system for judges, the term "member" as used in K.S.A. 74-4927 and amendments thereto, and as used in this section shall include members of the retirement system for judges.

(b) Except as otherwise provided by this subsection, the employer of any member who is a member of the retirement system for judges shall pay to the Kansas public employees retirement system in such manner as the board of trustees shall prescribe, an amount equal to .4% of the amount of compensation on which the member's contributions to the retirement system for judges are based for deposit in the group insurance reserve of the Kansas public employees retirement fund, in lieu of the amount required to be paid under subsection (4) of K.S.A. 74-4927 and amendments thereto. Notwithstanding the provisions of this subsection, no employer shall pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on April 1, 2000, and ending on December 31, 2001, *or for the period commencing July 1, 2002, and ending on December 31, 2002*.

Sec. 7. K.S.A. 74-4927g is hereby amended to read as follows: 74-4927g. (1) For the purposes of providing the "insured death benefit" and "long-term disability benefit" as prescribed in K.S.A. 74-4927, and amendments thereto, *and for the purposes of providing the "accidental death benefit" as prescribed in subsection (2) of K.S.A. 74-4916, and amendments thereto*, to all employees employed *by the state board of regents or* by educational institutions under the state board of regents who are fulfilling the ~~two-year~~ service requirement under subsection (a) of K.S.A. 74-4925, and amendments thereto, on and after the first day of the first payroll period of the fiscal year ending June 30, 1985, the term "member" as used in *subsection (2) of K.S.A. 74-4916, and amendments thereto, and K.S.A. 74-4927a, and amendments thereto, and as used* in this section, shall include the aforementioned employees.

(2) The employer of any member shall pay to the Kansas public employees retirement system in such manner as the board of trustees shall prescribe, ~~beginning with the first day~~

~~of the first payroll period of the fiscal year ending June 30, 1985, and each payroll period thereafter, an amount sufficient to pay the amount of the employer's contribution attributable to the accidental death benefit as prescribed in subsection (2) of K.S.A. 74-4916, and amendments thereto, and an amount sufficient to pay the employer's contribution to the group insurance reserve as provided in subsection (4) of K.S.A. 74-4927, and amendments thereto.~~

(3) The employer of any member shall maintain a file of the beneficiaries named by the persons covered under this section in the form and manner as prescribed by the board of trustees.

~~(4) Coverage under the plan of death and long-term disability benefits shall begin with the first day of the first payroll period of the fiscal year ending June 30, 1985, for such member and other persons as defined in this section.”;~~

And by renumbering sections accordingly;

On page 15, in line 31, after “72-8603” by inserting “, 74-4927g”; in line 32, after “74-4919t,” by inserting “74-4927, 74-4927b, 74-4927f,”;

On page 1, in the title, in line 12, after the semicolon, by inserting “death and disability benefits;”; also in line 12, after “72-8603” by inserting “, 74-4927g”; in line 13, after “74-4919m,” by inserting “74-4927, 74-4927b, 74-4927f,”;

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

STEPHEN R. MORRIS
DAVID ADKINS
Conferees on part of Senate

KENNY A. WILK
LLOYD A. STONE
JOE SHRIVER
Conferees on part of House

Senator Morris moved the Senate adopt the Conference Committee Report on **S Sub for HB 2621**.

On roll call, the vote was: Yeas 28, Nays 12, Present and Passing 0, Absent or Not Voting 0.

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

Nays: Barone, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Lee, Pugh, Steineger.

The Conference Committee report was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Morris, 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, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1860—

A RESOLUTION in memory of Alvah Calvin “Cal” James.

WHEREAS, Calvin James, 73, died February 13 at his home in Jewell. A legend in Kansas Republican politics, Mr. James served as precinct committeeman for 30 years, Jewell County chairman for 16 years, state treasurer for two years, 1st congressional district chairman for 22 years, state committee member for 18 years and as Republican national committeeman, a position he held at the time of his death. He was an advisor and confidant of many state and congressional leaders, including United States Senators Bob Dole, Nancy Landon Kassebaum Baker and Pat Roberts, Congressman Jerry Moran, and Governors Robert F. Bennett, Mike Hayden and Bill Graves. As indicated by the Republican state

chairman, Mark Parkinson, "We are all saddened by Cal's passing, he will be missed on so many levels--as a friend, advisor and leader"; and

WHEREAS, Mr. James established the James Clothing store in Jewell in June of 1950. He married Betty Collie on January 21, 1951, and was drafted into the army the next month. After serving in the United States Army in Korea through 1952 he returned to Jewell to reopen the clothing store. He and his wife later owned and operated the James Clothing and Mill Street Emporium in Beloit until their retirement in 1996. He served his community in many ways including service on various church committees, the USD 279 school board and the Chamber of Commerce; and

WHEREAS, Calvin James is survived by his wife, Betty, and his daughter, Susan, plus his son-in-law, Greg Knittel, and his grandson, David Knittel: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize the service Calvin James gave to his party and community and extend our deepest sympathy to his family and friends; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Mrs. Calvin James, 315 Pearl, Jewell, Kansas 66949.

On emergency motion of Senator Morris **SR 1860** was adopted unanimously.

Senator Morris introduced as guests Mr. James' wife, Betty; daughter, Susan Knittel and grandson, David Knittel.

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

SENATE RESOLUTION No. 1861—

A RESOLUTION congratulating and commending the University of Kansas men's basketball team.

WHEREAS, The University of Kansas Jayhawks men's basketball team finished the 2001-02 season with a record of 33 wins to four losses -- the team's most wins since having 35 in 1997-98. The Jayhawks advanced to the NCAA Division I Final Four for the first time since 1993, the third time under Head Coach Roy Williams and the 11th time in school history; and

WHEREAS, The Jayhawks won the regular-season conference title for the first time since 1998, the eighth time under Coach Williams and the 46th time in school history. The Jayhawks had 16 wins with zero losses in the Big 12 Conference to become the first team in the history of the league to be undefeated, and the first Jayhawk team to be unbeaten in conference play since being undefeated in the Big Eight in 1970-71; and

WHEREAS, The Jayhawks were undefeated at home for the first time since the 1997-98 season, and will start next season with a 16-game home win streak. The Jayhawks set a school record for average home attendance this year, as an average of 16,285 fans packed Allen Fieldhouse for each home game this year; and

WHEREAS, The Jayhawks led the nation in four statistical categories -- scoring offense, field goal percentage, assists, and winning percentage. The Jayhawks set a school record by scoring 100 points or more 12 times over the course of the season; and

WHEREAS, The members of the 2001-02 team are Drew Gooden, Jeff Hawkins, Lewis Harrison, Brett Ballard, Nick Collison, Keith Langford, Kirk Hinrich, Aaron Miles, Jeff Boschee, Bryant Nash, Jeff Carey, Wayne Simien, Michael Lee, Chris Zerbe and Todd Kappelmann; the coaches are Roy Williams, head coach; Neil Dougherty, Joe Holladay and Ben Miller, assistant coaches, and Mark Cairns, athletic trainer: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the University of Kansas men's basketball team and coaches for their success during the 2001-02 basketball season; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Dr. Robert Hemenway, Chancellor, University of Kansas, 230 Strong Hall, Lawrence, Kansas 66045-0000.

On emergency motion of Senator Praeger **SR 1861** was adopted unanimously.

Senators paid tribute to team members and coaches for their success during this last season.

Senator Praeger introduced team members: Drew Gooden, Jeff Hawkins, Lewis Harrison, Brett Ballard, Nick Collison, Keith Langford, Kirk Hinrich, Aaron Miles, Jeff Boschee, Bryant Nash, Jeff Carey, Wayne Simien, Michael Lee, Chris Zerbe and Todd Kappelmann; head coach, Roy Williams; assistant coaches, Neil Dougherty, Joe Holladay and Ben Miller; and athletic trainer, Mark Cairns.

Senator Praeger gave mementoes to the guests, and basketballs were given by Coach Williams to President Kerr and Senator Hensley.

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 Morris in the chair.

On motion of Senator Morris the following report was adopted:

Recommended **HB 2009** be amended by adoption of the committee amendments.

Senator Corbin moved to amend **HB 2009** as amended by Senate Committee, on page 1, by striking all in lines 40 through 43;

By striking all on pages 2 through 8;

On page 9, in line 14, by striking "\$.23" and inserting "\$.25"; in line 15, by striking "\$.26" and inserting "\$.28"; also, in line 15, by striking "\$.13" and inserting "\$.14"; in line 16, by striking "\$.40" and inserting "\$.45"; in line 17, by striking "\$1.00" and inserting "\$1.25"; in line 19, by striking "\$3.25" and inserting "\$3.30";

On page 10, in line 39, by striking "7.14%" and inserting "7.57%";

On page 11, in line 37, by striking "\$.05" and inserting "\$.07"; in line 38, by striking "\$.10" and inserting "\$.15"; in line 39, by striking "\$.25" and inserting "\$.50"; in line 40, by striking "\$.75" and inserting "\$.80"; in line 41, by striking "\$.06" and inserting "\$.08"; in line 42, by striking "\$.03" and inserting "\$.04";

On page 12, in line 11, before "of" by inserting "of 33 $\frac{1}{3}$ %"; also in line 11, after the period by inserting "The remainder of such tax shall be remitted in equal payments on or before September 25, 2002, and on or before December 24, 2002."; by striking all in lines 19 through 43;

By striking all on pages 13 and 14;

On page 15, by striking all in lines 1 through 6; in line 10, by striking "\$.89" and inserting "\$1.00"; in line 11, by striking "\$1.1125" and inserting "\$1.25"; in line 24, by striking "\$.65" and inserting "\$.76"; in line 25, by striking "\$.8125" and inserting "\$.95"; in line 26, by striking "\$.65 or \$.8125" and inserting "\$.76 or \$.95"; in line 29, after "payable" by inserting "in equal installments"; also in line 29, before the period by inserting ", on or before September 30, 2002, and on or before December 30, 2002";

On page 16, in line 4, by striking "0.71%" and inserting "0.636%";

On page 17, in line 21, by striking "0.71%" and inserting "0.636%"; in line 27, by striking "0.71%" and inserting "0.636%"; by striking all in lines 28 through 43;

On page 18, by striking all in lines 1 through 32; in line 33, by striking "On and after March 1, 2002,";

On page 19, by striking all in lines 20 through 42;

On page 20, by striking all in lines 1 through 27; in line 33, by striking "5.2%" and inserting "5.3% on and after June 1, 2002, and before June 1, 2004, 5.2% on and after June 1, 2004, and before June 1, 2005, and 5% on and after June 1, 2005,";

On page 26, in line 11, by striking "including mobile phone" and inserting "mobile telecommunication"; in line 12, before the semicolon by inserting ". On and after August 1, 2002, the provisions of the federal mobile telecommunications sourcing act as in effect on January 1, 2002, shall be applicable to all sales of mobile telecommunication services taxable pursuant to this subsection. The secretary of revenue is hereby authorized and directed to perform any act deemed necessary to properly implement such provisions"; after line 32, by inserting the following:

"Sec. 9. K.S.A. 2001 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, and dry-cleaning and laundry services taxed pursuant to K.S.A. 2001 Supp. 65-34,150, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the

project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using directly or through an authorized agent such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under

authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626 and amendments thereto, by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; such term shall include accessories attached or to be attached to motor vehicles, but such term shall not include motor vehicles or personal property which when installed becomes a fixture to real property;

(s) except as provided in K.S.A. 2001 Supp. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 *et seq.*

and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction,

reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall

include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, non-industrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the

means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the

federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease; and

(8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was

issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be

accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation; and

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials.

(hhh) (1) (A) *All sales of any article of clothing or footwear designed to be worn on or about the human body if the sales price of the article is less than \$500, and the sale takes place during a period beginning at 12:01 a.m. on the first Saturday in August and ending at 12 midnight on the following Sunday.*

(B) *This exemption shall not apply to the sale of:*

(i) *Any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally worn except when used for the athletic activity or protective use for which it is designed;*

(ii) *accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing; and*

(iii) *the rental of clothing or footwear.*

(2) *All sales of computers, printers and printer supplies and computer software if the sales price is less than \$500, and the sale takes place during a period beginning at 12:01 a.m. on the first Saturday in August and ending at 12 midnight on the following Sunday.*

(3) *The provisions of this subsection shall expire on September 1, 2004.*

Sec. 10. K.S.A. 12-189a is hereby amended to read as follows: 12-189a. The following sales shall be subject to the taxes levied and collected by all cities and counties under the provisions of K.S.A. 12-187 *et seq.* and amendments thereto:

(a) All sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises and all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes for agricultural use;

(b) All sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(c) All sales of intrastate telephone and telegraph services for noncommercial use; *and*

(d) *All sales of tangible personal property exempted by the provisions of subsection (hhh) of K.S.A. 79-3606, and amendments thereto.*

On page 27, after line 23, by inserting the following:

“(3) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) The state treasurer shall credit $\frac{1}{20}$ of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5%, and deposited as provided by subsection (a) exclusive of amounts credited pursuant to subsection (d), in the state highway fund.”;

Also, on page 27, by striking all in lines 38 through 43;

By striking all on pages 28 and 29;

On page 30, by striking all in lines 1 through 13 and inserting the following:

“Sec. 12. On and after June 1, 2002, K.S.A. 2001 Supp. 79-3635 is hereby amended to read as follows: 79-3635. (a) (1) A claimant shall be entitled to a refund of retailers' sales taxes paid upon food during the calendar year 1998 and each year thereafter in the amount hereinafter provided. There shall be allowed for each member of a household of a claimant having income of \$12,500 or less, an amount equal to \$60. There shall be allowed for each member of a household of a claimant having income of more than \$12,500 but not more than \$25,000, an amount equal to \$30. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of \$30 or \$60, as the case requires. All such claims shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or by a person or persons designated by the director.

(2) As an alternative to the procedure described by paragraph 1, for all taxable years commencing after December 31, 1997, there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to \$60 or \$30, as the case requires, for each member of a household. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of \$30 or \$60, as the case requires. If the amount of such tax credit exceeds the claimant's income tax liability for such taxable year, such excess amount shall be refunded to the claimant.

(b) A head of household shall make application for refunds for all members of the same household upon a common form provided for the making of joint claims. All claims paid to members of the same household shall be paid as a joint claim by means of a single warrant.

(c) No claim for a refund of taxes under the provisions of K.S.A. 79-3632 *et seq.* shall be paid or allowed unless such claim is actually filed with and in the possession of the department of revenue on or before April 15 of the year next succeeding the year in which such taxes were paid. The director of taxation may: (1) Extend the time for filing any claim under the provisions of this act when good cause exists therefor; or (2) accept a claim filed after the deadline for filing in the case of sickness, absence or disability of the claimant if such claim has been filed within four years of such deadline.

(d) *In the case of all tax years commencing after December 31, 2001, the threshold income amounts prescribed in this section and subsection (c) of K.S.A. 79-3633, and amendments thereto, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1 (f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.”;*

Also, on page 30, in line 20, by striking “5.2%” and inserting “5.3% on and after June 1, 2002, and before June 1, 2004, 5.2% on and after June 1, 2004, and before June 1, 2005, and 5% on and after June 1, 2005”;

On page 31, after line 15, by inserting the following:

“(3) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(4) The state treasurer shall credit $\frac{5}{100}$ of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.”;

Also, on page 31, by striking all in lines 30 through 43;

On page 32, by striking all in lines 1 through 6 and inserting the following:

“Sec. 15 K.S.A. 12-198a and K.S.A. 2001 Supp. 79-3606 are hereby repealed.

Sec. 16. On and after June 1, 2002, K.S.A. 79-3310 and 79-3312 and K.S.A. 2001 Supp. 41-501, 79-3311, 79-3603, 79-3620, 79-3635, 79-3703 and 79-3710 are hereby repealed.

Sec. 17. On July 1, 2002, K.S.A. 2001 Supp. 79-3603, as amended by section 1 of 2002 Senate Bill No. 372 is hereby repealed.”;

By renumbering existing sections accordingly;

In the title, in line 12, after “K.S.A.” by inserting “12-198a.”; also, in line 12, by striking all after “79-3310”; by striking all in lines 13 through 17 and inserting “and 79-3312 and

K.S.A. 2001 Supp. 41-501, 79-3311, 79-3603, 79-3606, 79-3620, 79-3635, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 79-3603, as amended by section 1 of 2002 Senate Bill No. 372.”

Senator Huelskamp requested the amendment be divided into five parts.

Part 1 contains the provisions of the bill which relate to modifications in sales and use tax rates.

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

On roll call, the vote was: Yeas 22, Nays 17, Present and Passing 1, Absent or Not Voting 0.

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

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

Present and Passing: Wagle.

The motion passed and Part 1 of the amendment was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I have reluctantly voted aye on this portion of **HB 2009** as amended, because although neither I nor the majority of my constituents support tax increases, the budget that has passed the Senate requires this tax to support it. Besides taxes on tobacco and alcohol, a sales tax increase was the least objectionable. As a body we have failed to adequately address the underlying problem which has lead us to this point: A burgeoning state government which, rather than providing a safety net for its citizens, has become a mattress instead, with a seemingly unlimited appetite for larger tax revenues.—DAVID D. JACKSON

Part 2 contains provisions of the bill relating to sales tax exemptions and rebates.

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

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

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

Nays: Gooch, Jackson, Lee.

Present and Passing: Feleciano.

The motion passed and Part 2 of the amendment was adopted.

Part 3 contains provisions of the bill relating to alcoholic beverage tax rate increases.

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

On roll call, the vote was: Yeas 22, Nays 17, Present and Passing 1, Absent or Not Voting 0.

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

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

Present and Passing: Gooch.

The motion passed and Part 3 of the amendment was adopted.

Part 4 contains provisions of the bill relating to estate tax modifications.

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

On roll call, the vote was: Yeas 23, Nays 16, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Barnett, Barone, Brungardt, Corbin, Donovan, Downey, Emler, Feleciano, Gooch, Goodwin, Hensley, Jenkins, Jordan, Kerr, Morris, Oleen, Praeger, Schodorf, Teichman, Umbarger, Vratil, Wagle.

Nays: Allen, Brownlee, Clark, Gilstrap, Harrington, Huelskamp, Jackson, Lee, Lyon, O'Connor, Pugh, Salmans, Schmidt, Steineger, Taddiken, Tyson.

Present and Passing: Haley.

The motion passed and Part 4 of the amendment was adopted.

Part 5 contains provisions of the bill relating to cigarette tax rate increases.

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

On roll call, the vote was: Yeas 24, Nays 14, Present and Passing 2, Absent or Not Voting 0.

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

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

Present and Passing: Haley, Steineger.

The motion passed and Part 5 of the amendment was adopted.

The Committee recommended **HB 2009** be passed as further amended.

The following amendments to **HB 2009** were rejected:

Senator Hensley moved to amend the bill as amended by Senate Committee and further amended by Senate Committee of the Whole, by striking all of sections 9 and 10 of the amendment;

On pages 31 and 32, of the amendment, in section 12, by striking "\$60" whenever it appears and inserting "\$72"; also, by striking "\$30" whenever it appears and inserting "\$36"

Senator Barone moved to amend the bill as amended by Senate Committee, on page 1, after line 39, by inserting a new section:

"New Section 1. Prior to the legislature's consideration of any bill that enacts any change in the rate of income tax, property tax, sales tax, compensating use tax, excise tax, privilege or premium tax, the person or organization which seeks sponsorship of such proposal shall submit to the appropriate legislative committees to which the proposal is assigned an impact report which assesses the impact of the proposed changes on employment in the state.";

By renumbering remaining sections accordingly

Senator Gilstrap moved to amend the bill as amended by Senate Committee, on page 3, in line 23, after the period by inserting "The amount of the rate increase in franchise tax and the increase in minimum and maximum amounts shall expire on June 1, 2004.";

On page 4, in line 38, after the period by inserting "The amount of the increase of the annual privilege fee shall expire on June 1, 2004.";

On page 6, in line 30, after the period by inserting "The amount of the rate increase in franchise tax and the increase in minimum and maximum amounts shall expire on June 1, 2004.";

On page 8, in line 43, after the period by inserting "The amount of the rate increase in franchise tax and the increase in minimum and maximum amounts shall expire on June 1, 2004.";

On page 9, in line 19, after the period by inserting "The amounts of increases in tax rates prescribed by this paragraph shall expire on June 1, 2004.";

On page 12, in line 32, after the period by inserting "The amount of the rate increase prescribed by this paragraph shall expire on June 1, 2004."; in line 41, after the period by inserting "The amount of the rate increase prescribed by this paragraph shall expire on June 1, 2004.";

On page 15, in line 15, after the period by inserting "The amounts of tax rate increases prescribed by this section shall expire on June 1, 2004.";

On page 17, in line 38, after the period by inserting "The amount of the rate increase prescribed by this section shall expire on June 1, 2004.";

On page 18, in line 33, after the second comma by inserting "and before March 1, 2004.";

On page 19, in line 27, by striking ", 2003, 2004 and 2005" and inserting "and 2003"; in line 32, by striking "2006" and inserting "2004"; in line 40, by striking ", 2003, 2004 and 2005" and inserting "and 2003";

On page 20, in line 5, by striking "2006" and inserting "2004"; in line 33, after "5.2%" by inserting "on and after June 1, 2002, and before June 1, 2004, and 4.9% on and after June 1, 2004.";

On page 29, in line 36, after the period by inserting “The increases in threshold amounts and allowable claim amounts prescribed by this section shall expire on June 1, 2004.”;

On page 30, in line 20, after “5.2%” by inserting “on and after June 1, 2002, and before June 1, 2004, and 4.9% on and after June 1, 2004.”;

On page 31, in line 38, after the period by inserting “The percentage increase prescribed in credit amount allowable shall expire for tax year 2004, and all such years thereafter.”

HB 2795 be amended by adoption of the committee amendments, be further amended by motion of Senator O'Connor as amended by Senate Committee, on page 3, following line 9, by inserting:

“New Sec. 4. This section and K.S.A. 12-2536, and amendments thereto, shall be known and may be cited as the bi-state county equity act.

Sec. 5. K.S.A. 12-2536 is hereby amended to read as follows: 12-2536. The Kansas and Missouri metropolitan culture district compact is hereby enacted into law and entered into by the state of Kansas with the state of Missouri legally joining therein, in the form substantially as follows:

Kansas and Missouri Metropolitan Culture District Compact

Article I.—Agreement and Pledge

The states of Kansas and Missouri agree to and pledge, each to the other, faithful cooperation in the future planning and development of the metropolitan culture district, holding in high trust for the benefit of its people and of the nation, the special blessings and natural advantages thereof.

Article II.—Policy and Purpose

The party states, desiring by common action to fully utilize and improve their cultural facilities, coordinate the services of their cultural organizations, enhance the cultural activities of their citizens, and achieve solid financial support for such cultural facilities, organizations and activities, declare that it is the policy of each state to realize such desires on a basis of cooperation with one another, thereby serving the best interests of their citizenry and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the creation of a metropolitan culture district as the means to implementation of the policy herein declared with the most beneficial and economical use of human and material resources.

Article III.—Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) “Metropolitan culture district” means a political subdivision of the states of Kansas and Missouri which is created under and pursuant to the provisions of this compact and which is composed of the counties in the states of Kansas and Missouri which act to create or to become a part of the district in accordance with the provisions of Article IV.

(b) “Commission” means the governing body of the metropolitan culture district.

(c) “Cultural activities” means sports or activities which contribute to or enhance the aesthetic, artistic, historical, intellectual or social development or appreciation of members of the general public.

(d) “Cultural organizations” means nonprofit and tax exempt social, civic or community organizations and associations which are dedicated to the development, provision, operation, supervision, promotion or support of cultural activities in which members of the general public may engage or participate.

(e) “Cultural facilities” means facilities operated or used for sports or participation or engagement in cultural activities by members of the general public.

Article IV.—The District

(a) The counties in Kansas and Missouri eligible to create and initially compose the metropolitan culture district shall be those counties which meet one or more of the following criteria: (1) The county has a population in excess of 300,000, and is adjacent to the state line; (2) the county contains a part of a city with a population according to the most recent federal census of at least 400,000; or (3) the county is contiguous to any county described in provisions (1) or (2) of this subpart (a). The counties of Johnson in Kansas and Jackson in Missouri shall be *sine qua non* to the creation and initial composition of the district.

Additional counties in Kansas and Missouri shall be eligible to become a part of the metropolitan culture district if such counties are contiguous to any one or more of the counties which compose the district and within 60 miles of the counties required by this article to establish the district.

(b) (1) Whenever the governing body of any county which is eligible to create or become a part of the metropolitan culture district shall determine that creation of or participation in the district is in the best interests of the citizens of the county and that the levy of a tax to provide on a cooperative basis with another county or other counties for financial support of the district would be economically practical and cost beneficial to the citizens of the county, the governing body may adopt by majority vote a resolution authorizing the same.

(2) Whenever a petition, signed by not less than the number of qualified electors of an eligible county equal to 5% of the number of ballots cast and counted at the last preceding gubernatorial election held in the county and requesting adoption of a resolution authorizing creation of or participation in the metropolitan culture district and the levy of a tax for the purpose of contributing to the financial support of the district, is filed with the governing body of the county, the governing body shall adopt such a resolution.

(3) Implementation of a resolution adopted under this subpart (b) shall be conditioned upon approval of the resolution by a majority of the qualified electors of the county voting at an election conducted for such purpose.

(c) (1) Upon adoption of a resolution pursuant to subpart (b)(1) or subpart (b)(2), the governing body of the county shall request, within 36 months after adoption of the resolution, the county election officer to submit to the qualified electors of the county the question of whether the governing body shall be authorized to implement the resolution. The resolution shall be printed on the ballot and in the notice of election. The question shall be submitted to the electors of the county at the primary or general election next following the date of the request filed with the county election officer. If a majority of the qualified electors are opposed to implementation of the resolution authorizing creation of or participation in the district and the levy of a tax for financial support thereof, the same shall not be implemented. The governing body of the county may renew procedures for authorization to create or become a part of the district and to levy a tax for financial support thereof at any time following rejection of the question.

(2) The ballot for the proposition in any county shall be substantially the following form:

“Shall a retail sales tax of _____ Yes

(insert amount, not to exceed ¼ cent)

be levied and collected in Kansas and Missouri metropolitan cultural district consisting of the county(ies) of _____ No

(insert name of counties)

for the support of cultural facilities and organizations within the district?”

The governing body of the county may place additional language on the ballot to describe the use or allocation of the funds.

(d) (1) The metropolitan culture district shall be created when implementation of a resolution authorizing the creation of the district and the levy of a tax for contribution to the financial support thereof is approved by respective majorities of the qualified electors of at least Johnson county, Kansas, and Jackson county, Missouri.

(2) When implementation of a resolution authorizing participation in the metropolitan culture district and the levy of a tax for contribution to the financial support thereof is approved by a majority of the qualified electors of any county eligible to become a part of the district, the governing body of the county shall proceed with the performance of all things necessary and incidental to participation in the district.

(3) Any question for the levy of a tax submitted after July 1, 2000, may be submitted to the electors of the county at the primary or general election next following the date of the request filed with the county election officer; at a special election called and held as otherwise provided by law; at an election called and held on the first Tuesday after the first Monday in February, except in presidential election years; at an election called and held on the first Tuesday after the first Monday in March, June, August or November; or at an

election called and held on the first Tuesday in April, except that no question for a tax levy may be submitted to the electors prior to January 1, 2002.

(4) No question shall be submitted to the electors authorizing the levy of a tax the proceeds of which will be exclusively dedicated to sports or sports facilities.

(e) Any of the counties composing the metropolitan culture district may withdraw from the district by adoption of a resolution and approval of the resolution by a majority of the qualified electors of the county, all in the same manner provided in this Article IV for creating or becoming a part of the metropolitan culture district. The governing body of a withdrawing county shall provide for the sending of formal written notice of withdrawal from the district to the governing body of the other county or each of the other counties comprising the district. Actual withdrawal shall not take effect until 90 days after notice has been sent. A withdrawing county shall not be relieved from any obligation which such county may have assumed or incurred by reason of being a part of the district, including, but not limited to, the retirement of any outstanding bonded indebtedness of the district.

Article V.—The Commission

(a) The metropolitan culture district shall be governed by the metropolitan culture commission which shall be a body corporate and politic and which shall be composed of resident electors of the states of Kansas and Missouri, respectively, as follows: (1) A member of the governing body of each county which is a part of the district, who shall be appointed by majority vote of such governing body; (2) a member of the governing body of each city, with a population according to the most recent federal census of at least 50,000, located in whole or in part within each county which is a part of the district, who shall be appointed by majority vote of such governing body; (3) two members of the governing body of a county with a consolidated or unified county government and city of the first class which is a part of the district, who shall be appointed by majority vote of such governing body; (4) a member of the arts commission of Kansas or the Kansas commission for the humanities, who shall be appointed by the governor of Kansas; and (5) a member of the arts commission of Missouri or the Missouri humanities council, who shall be appointed by the governor of Missouri. To the extent possible, the gubernatorial appointees to the commission shall be residents of the district. The term of each commissioner initially appointed by a county governing body shall expire concurrently with such commissioner's tenure as a county officer or three years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner succeeding a commissioner initially appointed by a county governing body shall expire concurrently with such successor commissioner's tenure as a county officer or four years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner initially appointed by a city governing body shall expire concurrently with such commissioner's tenure as a city officer or two years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner succeeding a commissioner initially appointed by a city governing body shall expire concurrently with such successor commissioner's tenure as a city officer or four years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner appointed by the governor of Kansas or the governor of Missouri shall expire concurrently with the term of the appointing governor, the commissioner's tenure as a state officer, or four years after the date of appointment as a commissioner of the district, whichever occurs sooner. Any vacancy occurring in a commissioner position for reasons other than expiration of terms of office shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Any commissioner may be removed for cause by the appointing authority of the commissioner.

(b) The commission shall select annually, from its membership, a chairperson, a vice-chairperson, and a treasurer. The treasurer shall be bonded in such amounts as the commission may require.

(c) The commission may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.

(d) The commission shall fix the time and place at which its meetings shall be held. Meetings shall be held within the district and shall be open to the public. Public notice shall be given of all meetings.

(e) A majority of the commissioners from each state shall constitute, in the aggregate, a quorum for the transaction of business. No action of the commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the commissioners from each state, present at such meeting, shall vote in favor thereof. No action of the commission taken at a meeting thereof shall be binding unless the subject of such action is included in a written agenda for such meeting, the agenda and notice of meeting having been mailed to each commissioner by postage paid first-class mail at least 14 calendar days prior to the meeting.

(f) The commissioners from each state shall be subject to the provisions of the laws of the states of Kansas and Missouri, respectively, which relate to conflicts of interest of public officers and employees. If any commissioner has a direct or indirect financial interest in any cultural facility, organization or activity supported by the district or commission or in any other business transaction of the district or commission, the commissioner shall disclose such interest in writing to the other commissioners and shall abstain from voting on any matter relating to such facility, organization or activity or to such business transaction.

(g) If any action at law or equity, or other legal proceeding, shall be brought against any commissioner for any act or omission arising out of the performance of duties as a commissioner, the commissioner shall be indemnified in whole and held harmless by the commission for any judgment or decree entered against the commissioner and, further, shall be defended at the cost and expense of the commission in any such proceeding.

Article VI.—Powers and Duties of the Commission

(a) The commission shall adopt a seal and suitable bylaws governing its management and procedure.

(b) The commission has the power to contract and to be contracted with, and to sue and to be sued.

(c) The commission may receive for any of its purposes and functions any contributions or moneys appropriated by counties or cities and may solicit and receive any and all donations, and grants of money, equipment, supplies, materials and services from any state or the United States or any agency thereof, or from any institution, foundation, organization, person, firm or corporation, and may utilize and dispose of the same.

(d) Upon receipt of recommendations from the advisory committee provided in subsection (g), the commission may provide donations, contributions and grants or other support, financial or otherwise, for or in aid of cultural organizations, facilities or activities in counties which are part of the district. In determining whether to provide any such support the commission shall consider the following factors:

- (1) Economic impact upon the district;
- (2) cultural benefit to citizens of the district and to the general public;
- (3) contribution to the quality of life and popular image of the district;
- (4) contribution to the geographical balance of cultural facilities and activities within and outside the district;
- (5) the breadth of popular appeal within and outside the district;
- (6) the needs of the community as identified in an objective cultural needs assessment study of the metropolitan area; and
- (7) any other factor deemed appropriate by the commission.

(e) The commission may own and acquire by gift, purchase, lease or devise cultural facilities within the territory of the district. The commission may plan, construct, operate and maintain and contract for the operation and maintenance of cultural facilities within the territory of the district. The commission may sell, lease or otherwise dispose of cultural facilities within the territory of the district.

(f) At any time following five years from and after the creation of the metropolitan cultural district as provided in paragraph (1) of subsection (d) of article IV, the commission, may borrow moneys for the planning, construction, equipping, operation, maintenance,

repair, extension, expansion, or improvement of any cultural facility and, in that regard, the commission at such time may:

(1) Issue notes, bonds or other instruments in writing of the commission in evidence of the sum or sums to be borrowed. No notes, bonds or other instruments in writing shall be issued pursuant to this subsection until the issuance of such notes, bonds or instruments has been submitted to and approved by a majority of the qualified electors of the district voting at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law;

(2) issue refunding notes, bonds or other instruments in writing for the purpose of refunding, extending or unifying the whole or any part of its outstanding indebtedness from time to time, whether evidenced by notes, bonds or other instruments in writing. Such refunding notes, bonds or other instruments in writing shall not exceed in amount the principal of the outstanding indebtedness to be refunded and the accrued interest thereon to the date of such refunding;

(3) provide that all notes, bonds and other instruments in writing issued hereunder shall or may be payable, both as to principal and interest, from sales tax revenues authorized under this compact and disbursed to the district by counties comprising the district, admissions and other revenues collected from the use of any cultural facility or facilities constructed hereunder, or from any other resources of the commission, and further may be secured by a mortgage or deed of trust upon any property interest of the commission; and

(4) prescribe the details of all notes, bonds or other instruments in writing, and of the issuance and sale thereof. The commission shall have the power to enter into covenants with the holders of such notes, bonds or other instruments in writing, not inconsistent with the powers granted herein, without further legislative authority.

(g) The commission shall appoint an advisory committee composed of members of the general public consisting of an equal number of persons from both the states of Kansas and Missouri who have demonstrated interest, expertise, knowledge or experience in cultural organizations or activities. *Subject to the provisions of subsection (l), the advisory committee shall make recommendations annually to the commission regarding donations, contributions and grants or other support, financial or otherwise, for or in aid of cultural organizations, facilities and activities in counties which are part of the district.*

(h) The commission may provide for actual and necessary expenses of commissioners and advisory committee members incurred in the performance of their official duties.

(i) The commission shall cause to be prepared annually a report on the operations and transactions conducted by the commission during the preceding year. The report shall be submitted to the legislatures and governors of the compacting states, to the governing bodies of the counties comprising the district, and to the governing body of each city that appoints a commissioner. The commission shall publish the annual report in the official county newspaper of each of the counties comprising the district.

(j) The commission has the power to apply to the congress of the United States for its consent and approval of the compact. In the absence of the consent of congress and until consent is secured, the compact is binding upon the states of Kansas and Missouri in all respects permitted by law for the two states, without the consent of congress, for the purposes enumerated and in the manner provided in the compact.

(k) The commission has the power to perform all other necessary and incidental functions and duties and to exercise all other necessary and appropriate powers not inconsistent with the constitution or laws of the United States or of either of the states of Kansas or Missouri to effectuate the same.

(l) (1) *Except as provided by this subsection, at least 45% of all moneys expended by, or authorized to be expended by the commission, in the form of donations, contributions and grants or other financial support for, or in aid of, cultural organizations, facilities and activities within the district shall be expended within each party state.*

(2) *The provisions of this subsection shall not apply to the expenditure of nonpublic moneys derived from gifts, donations, bequests or other contributions which require a specific use as a condition of the receipt thereof.*

Article VII.—Finance

(a) The moneys necessary to finance the operation of the metropolitan culture district and the execution of the powers, duties and responsibilities of the commission shall be appropriated to the commission by the counties comprising the district. The moneys to be appropriated to the commission shall be raised by the governing bodies of the respective counties by the levy of taxes as authorized by the legislatures of the respective party states.

(b) The commission shall not incur any indebtedness or obligation of any kind; nor shall the commission pledge the credit of either or any of the counties comprising the district or either of the states party to this compact, except as authorized by article VI. The budget of the district shall be prepared, adopted and published as provided by law for other political subdivisions of the party states. No budget shall be adopted by the commission until it has been submitted to and reviewed by the governing bodies of the counties comprising the district and the governing body of each city represented on the commission.

(c) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(d) The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the compacting states, the counties comprising the district, the cities that appoint a commissioner, and other persons authorized by the commission.

Article VIII.—Entry into Force

(a) This compact shall enter into force and become effective and binding upon the states of Kansas and Missouri when it has been enacted into law by the legislatures of the respective states.

(b) Amendments to the compact shall become effective upon enactment by the legislatures of the respective states.

Article IX.—Termination

This compact shall continue in force and remain binding upon a party state until its legislature shall have enacted a statute repealing the same and providing for the sending of formal written notice of enactment of such statute to the legislature of the other party state. Upon enactment of such a statute by the legislature of either party state, the sending of notice thereof to the other party state, and payment of any obligations which the metropolitan culture district commission may have incurred prior to the effective date of such statute, including, but not limited to, the retirement of any outstanding bonded indebtedness of the district, the agreement of the party states embodied in the compact shall be deemed fully executed, the compact shall be null and void and of no further force or effect, the metropolitan culture district shall be dissolved, and the metropolitan culture district commission shall be abolished.

Article X.—Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of either of the party states or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of either of the states party thereto, the compact shall thereby be nullified and voided and of no further force or effect.”;

And by renumbering sections accordingly;

Also on page 3, in line 10, after “K.S.A.” by inserting “12-2536,”;

In the title, by striking all in lines 12 through 16 and inserting:

“AN ACT concerning sales and property taxes; relating to sale of property for delinquent property taxes; relating to distribution of certain sales tax revenues; relating to the determination of fair market value; amending K.S.A. 12-2536, 79-503a and 79-2803a and repealing the existing sections.”

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

On roll call, the vote was: Yeas 23, Nays 15, Present and Passing 1, Absent or Not Voting 1.

Yeas: Barone, Brownlee, Clark, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Lee, Lyon, O'Connor, Pugh, Salmans, Steineger, Taddiken, Tyson, Wagle.

Nays: Allen, Barnett, Brungardt, Corbin, Donovan, Jenkins, Kerr, Morris, Oleen, Praeger, Schmidt, Schodorf, Teichman, Umbarger, Vratil.

Present and Passing: Jordan.

Absent or Not Voting: Adkins.

The motion carried and the amendment was adopted.

Senator Haley amended **HB 2795** as amended by Senate Committee, on page 3, after line 9, by inserting the following:

“Sec. 4. K.S.A. 79-2401a is hereby amended to read as follows: 79-2401a. (a) (1) Except as provided by paragraph (2) and subsection (b), real estate bid off by the county for both delinquent taxes and special assessments, as defined by subsection (c), shall be held by the county until the expiration of two years from the date of the sale, subject only to the right of redemption as provided by this section. Any owner or holder of the record title, the owner's or holder's heirs, devisees, executors, administrators, assigns or any mortgagee or the owner's or holder's assigns may redeem the real estate sold in the sale at any time within two years after the sale by paying to the county treasurer the amount for which the real estate was sold plus the interest accrued, all delinquent taxes and special assessments and interest thereon that have accrued after the date of such sale which remain unpaid as of the date of redemption and costs and expenses of the sale and redemption, including but not limited to, abstracting costs incurred in anticipation of a tax sale.

(2) Any abandoned building or structure and the land accommodating such building or structure bid off by the county for both delinquent taxes and special assessments, as defined by subsection (c), shall be held by the county until the expiration of one year from the date of the sale, subject only to the right of redemption as provided by this section. Any owner or holder of the record title, the owner's or holder's heirs, devisees, executors, administrators, assigns or any mortgagee or the owner's or holder's assigns may redeem the real estate sold in the sale at any time within one year after the sale by paying to the county treasurer the amount for which the real estate was sold plus the interest accrued, all delinquent taxes and special assessments and interest thereon that have accrued after the date of such sale which remain unpaid as of the date of redemption and costs and expenses of the sale and redemption, including but not limited to abstracting costs incurred in anticipation of a tax sale.

When used in this subsection “abandoned building or structure and the land accommodating such building or structure” shall mean a building or structure which, for a period of at least one year, has been unoccupied and which there has been a failure to perform reasonable maintenance of such building or structure and the land accommodating such building or structure.

(b) (1) Except as provided by paragraph (2), real estate which is a homestead under section 9 of article 15 of the Kansas Constitution and all real estate not described in subsection (a) shall be held by the county until the expiration of three years from the date of the sale and may be redeemed partially by paying to the county treasurer the amount of taxes for which the real estate was sold for one or more years, beginning with the first year for which the real estate was carried on the tax-sale book of the county plus interest at the rate prescribed by K.S.A. 79-2004, and amendments thereto, on the amount from the date the same was carried on the sale book. Upon payment and partial redemption, the time when a tax foreclosure sale may be commenced shall be extended by the number of years paid in the partial redemption.

(2) In Johnson ~~and Wyandotte counties~~ county, real estate which is a homestead under section 9 of article 15 of the Kansas constitution and all real estate not described in subsection (a) shall be held by the county until the expiration of three years from the date of the sale and may be redeemed partially by paying to the county treasurer the amount of taxes for which the real estate was sold for one or more years, beginning with the most

recent year for which the real estate was carried on the tax-sale book of the county plus interest at the rate prescribed by K.S.A. 79-2004, and amendments thereto, on the amount from the date the same was carried on the sale book.

(c) For the purpose of this act, the term "real estate bid off by the county for both delinquent taxes and special assessments" shall include only real estate on which there are delinquent taxes of a general ad valorem property tax nature and delinquent special assessments or other special taxes levied by a city, county or other municipality in response to a petition or request of the landowners. Upon publication of the listing of real estate subject to sale under the provisions of K.S.A. 79-2302, and amendments thereto, the clerk of any city, county or other municipality which has levied special assessments during the past 10 years shall certify to the county treasurer those listed parcels of real estate which are located within a special assessment district, but no parcel shall be so certified unless the public improvement was constructed pursuant to a petition or request of one or more landowners sufficient to authorize the improvement under the applicable statutory special assessment procedure used by the city, county or other municipality.

(d) If at the expiration of the redemption period, the real estate has not been redeemed, the real estate shall be disposed of by foreclosure and sale in the manner provided by K.S.A. 79-2801 et seq., and amendments thereto.":

Re-number remaining sections accordingly;

Also on page 3, in line 10, after "79-503a" by inserting ", 79-2401a";

On page 1, in the title, in line 14, after the semicolon, by inserting "concerning the redemption of real estate;"; in line 15, after "79-503a" by inserting ", 79-2401a", and **HB 2795** be passed as further amended.

Sub for S Sub for HB 2051 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **HB 2009**, **HB 2795** were advanced to Final Action and roll call.

HB 2009. An act relating to state government financing; providing tax revenue enhancements therefor; amending K.S.A. 12-198a, 79-3310 and 79-3312 and K.S.A. 2001 Supp. 41-501, 79-3311, 79-3603, 79-3606, 79-3620, 79-3635, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 79-3603, as amended by section 1 of 2002 Senate Bill No. 372.

On roll call, the vote was: Yeas 22, Nays 18, Present and Passing 0, Absent or Not Voting 0.

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

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

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I have had a few folks urge me to vote against all tax increases. They believe supporting a tax increase could compromise my candidacy for statewide office and that my opponents will use such a vote against me. While I would never vote for a tax increase without careful consideration, I believe voting for this bill is the only responsible action I can take. I hate raising taxes but I vote yes on **HB 2009** because, in light of our state's unprecedented fiscal crisis, this bill provides the revenue necessary to fund public education and essential services like health care for seniors. I am particularly concerned that without this revenue important public safety agencies would not be appropriately funded. Voting yes for this bill is the responsible thing to do. I commend my colleagues who demonstrated political courage by voting to honor our commitments and promises to the citizens of Kansas. Those who voted against such revenue increases are clearly no friend of school children, disabled Kansans and seniors.—DAVID ADKINS

MR. PRESIDENT: I vote no on **HB 2009**. The Legislature had two primary options in dealing with our budget shortfall. We could raise more revenue or cut our spending. I have

supported the latter because it's the best option for the folks back home. State spending over the past twelve years has increased by an average of 7.5% per year compared to an inflation rate of 3.2%. We have had a spending problem, not a taxing problem. This tax increase of nearly \$300 million for FY03 is not dedicated to K-12 education. It is a myth to connect support for a tax increase to support for education. Most of this money will provide an ending balance for government. It's time we think about Kansas taxpayers and allow them to have an ending balance in their bank account.—KARIN BROWNLEE

Senators Clark, Harrington, Huelskamp and O'Connor request the record to show they concur with the "Explanation of Vote" offered by Senator Brownlee on **HB 2009**.

MR. PRESIDENT: The tax increases contained within this bill will cost Kansans \$300 million next year alone, a staggering \$1.3 billion over the next five years. With this in mind, I offer my top five reasons to vote against this huge tax increase:

We are in the middle of a war.

The agricultural economy has been in a recession for five years now, and farm income fell another 25% last year.

Last year bankruptcies in Kansas were at their highest level in our entire history.

At least 15,000 Kansans lost their jobs in the last year alone.

Kansas is already the high-tax state on the Great Plains, and these tax increases will devastate individuals, businesses and economic recovery in Kansas.

If this mammoth tax increase package is enacted, will the last business leaving the high-tax state of Kansas, please turn out the lights.—TIM HUELSKAMP

Senators Clark and Harrington request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **HB 2009**.

MR. PRESIDENT: I can not support **HB 2009**. There is little which would encourage me to raise the type of taxes in this bill.

Why raise taxes which merely guarantee another budget shortfall next session of hundreds of millions of dollars? Or why raise the sales tax, the most regressive tax, when progressive tax increases such as the income tax are not even considered? Why rely on much of the revenues in this bill which are based upon pure speculation, and may be little more than an illusion?

Our budget crisis is no illusion, which is why I would support fair, balanced, and equally distributed taxes. Kansas' tax policy is already very regressive, and **HB 2009** makes our situation worse.

The taxes raised with this bill will not close our budget shortfall; they will not prevent local governments and school boards from being forced to raise their own local property taxes; and they will not receive my support.

Mr. President, I have always been straightforward and honest with my constituents. I cannot tell them this tax package resolves the budget shortfall or adequately funds education at any level for the foreseeable future, nor can I tell them it is fair or balanced. For that reason above all others, I vote no.—ANTHONY HENSLEY

Senators Barone, Feleciano, Haley, Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **HB 2009**.

MR. PRESIDENT: My vote in favor of **HB 2009** was reluctantly placed not because my constituents wanted a tax increase but because the projected revenue in fiscal year 2003 is not sufficient to fund the budget. Under the present budget system, legislators are unable to identify those programs which should be reduced or eliminated, nor to identify waste and mismanagement which is endemic throughout the state budget. A change in procedure is necessary and by spreading these comments upon the record, I am requesting an interim committee to identify a procedure that better addresses our problem.—DAVID D. JACKSON

MR. PRESIDENT: I vote no because this bill abandons the principles of limited government, low taxation, and individual freedom. We can no longer deficit spend and then punish the taxpayers for legislative fiscal irresponsibility. This was the year for opportunity to discuss the big issues of level of taxation, state government size and scope. Instead, we continue to budget what we cannot afford, and spend revenues that we do not have. We are confirming what many have said before, it is impossible for the legislature to restrain spending. The saddest part about this debate tonight was that it was not even necessary.—BOB LYON

Senators Clark, Haley and Huelskamp request the record to show they concur with the “Explanation of Vote” offered by Senator Lyon on **HB 2009**.

MR. PRESIDENT: We Senators who voted “yes” on **HB 2009** have heard the message loud and clear from citizens across this state—do the job we have elected you to do.

The citizens of Kansas have spoken clearly to the Kansas Legislature—be responsible, balance the budget, protect the schools and protect those in need.

A bi-partisan group of senators have supported a bill that was designed to increase revenues by affecting as small a variety of segments of the Kansas economy as possible.

Twenty-two senators stepped up to the plate today. I am proud of their courage!—LANA OLEEN

Senators Goodwin, Kerr, Morris, Teichman, Umbarger and Vratil request the record to show they concur with the “Explanation of Vote” offered by Senator Oleen on **HB 2009**.

MR. PRESIDENT: I vote aye on **HB 2009** because it is unpleasant but necessary legislation. Some claim to represent taxpayers. Some claim to represent education. Some claim to represent seniors. Some claim to represent border counties. Some claim to represent the poor. Some claim to represent the rich. Some claim to represent smokers. Some claim to represent anti-smokers.

Mr. President, I represent them all and more. I represent *all* of the people in my district. I am here to do the hard work of responsibly balancing competing interests.

Voting “no” is easy. Voting “aye” is hard. I have voted for spending cuts, and now I vote for revenue necessary to balance the budget. I vote “aye” because Kansas has long been led by a responsible governing center. I am here to be part of that level-headed tradition.—DEREK SCHMIDT

Senators Goodwin, Kerr, Morris, Taddiken, Teichman, Umbarger and Vratil request the record to show they concur with the “Explanation of Vote” offered by Senator Schmidt on **HB 2009**.

HB 2795, An act concerning sales and property taxes; relating to sale of property for delinquent property taxes; relating to distribution of certain sales tax revenues; relating to the determination of fair market value; concerning the redemption of real estate; amending K.S.A. 12-2536, 79-503a, 79-2401a and 79-2803a and repealing the existing sections.

On roll call, the vote was: Yeas 24, Nays 16, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Brownlee, Brungardt, Clark, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Lee, Lyon, O’Connor, Pugh, Steineger, Tyson, Wagle.

Nays: Adkins, Allen, Barnett, Corbin, Donovan, Kerr, Morris, Oleen, Praeger, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

The bill passed, as amended.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 652**.

Also, passage of **SB 297**, as amended; **Substitute SB 422**, as amended by **House Substitute for Substitute SB 422**; **SB 438**, as amended, **SB 499**, as amended, **SB 647**, as amended.

The House adopts the conference committee report on **SB 429**.

The House adopts the conference committee report on **SB 489**.

The House adopts the conference committee report on **House Substitute for SB 605**.

Announcing, the House adopts the conference committee report on **HB 2703**.

The House adopts the conference committee report on **Substitute HB 2979**.

The House adopts the conference committee report on **SCR 1623**.

The House adopts the conference committee report to agree to disagree on **HB 2337** and has appointed Representatives Ray, Campbell and Reardon as second conferees on the part of the House.

The House announces the appointment of Representatives O’Neal, Loyd and Pauls to replace Representatives Johnson, O’Neal and Minor as conferees on **HB 2817**.

The House announces the appointment of Representatives O'Neal, Loyd and Pauls to replace Representatives Willk, Neufeld and Nichols as conferees on **SB 396**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Morris the Senate nonconcurred in the House amendments to **H Sub for Sub SB 422** and requested a conference committee be appointed.

The President appointed Senators Morris, Jordan and Feleciano as a conference committee on the part of the Senate.

On motion of Senator Schmidt the Senate nonconcurred in the House amendments to **SB 438** and requested a conference committee be appointed.

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

On motion of Senator Morris the Senate nonconcurred in the House amendments to **SB 499** and requested a conference committee be appointed.

The President appointed Senators Morris, Jordan and Feleciano as a conference committee on the part of the Senate.

On motion of Senator Umbarger the Senate nonconcurred in the House amendments to **SB 647** and requested a conference committee be appointed.

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

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

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

