

Journal of the Senate

SEVENTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, May 10, 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,

Our state has a rich early history filled with interesting anecdotes.

In 1542 a Franciscan missionary in Kansas was the first Christian martyr in this country.

Kansas had the highest mortality rate of any other state during the Civil war.

In 1869 Kansas became the first state to approve the 15th amendment to the United States constitution granting black citizens the right to vote.

The lyrics to "Home on the Range" were written by Dr. Brewster Higley, a relative of Senator Jenkins.

The first woman mayor in the United States was elected in Argonia in 1887.

E.P. McCabe of Graham County was the first black citizen to be elected to a state office north of the Mason Dixon line.

I-70 in Kansas was the first interstate highway to be completed by any state.

Both native Kansans and adopted Kansans (like me) love their state. And when it faces a crisis of any kind, we pray and work to solve it. Not just because the constitution requires a proposed budget to be fully funded, but because Kansas needs help.

And so we continue to pray, O God, that You would help us fund this budget with as little pain as possible for those whose taxes will be raised or whose budgets will be cut.

I ask this in the Name of Jesus,

AMEN

PRESENTATION OF PETITIONS

The following petition was presented, read and filed:

SP 11, by Senator Lana Oleen: A petition asking Legislators and Governor Graves to affirm their commitment in support for the inherent dignity and value of every employee in public service and an atmosphere of justice based upon respect for an employee's worth by returning to those employees their step increases and approving an adequate Cost of Living Adjustment, signed by Bill Glover and 190 others from the Riley and Geary County Areas.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **HB 2878**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2337**, submits the following report:

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

On page 2, by striking all in lines 41, 42 and 43 and inserting:

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

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

BARBARA P. ALLEN

KAY O’CONNOR

MARK GILSTRAP

Conferees on part of Senate

GERRY RAY

LARRY L. CAMPBELL

Conferees on part of House

Senator Allen moved the Senate adopt the conference committee report on **HB 2337**.

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

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

Nays: Lee.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2878**, submits the following report:

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

On pages 8 through 12, by redesignating paragraphs (1) through (20) as subsections (a) through (t); respectively;

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

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

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

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

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

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

such proposition is not approved, the levy will not be made. The proceeds thereof shall be placed in the hands of the appropriate governing board to be administered as provided by this act.

In addition thereto, to provide for the purchase of or the construction of facilities for the community mental health center, and/or facility for the mentally retarded, the board or boards of county commissioners may, upon petition of the governing board, levy an annual tax on all taxable tangible property in their county and to issue and sell general obligation bonds of such county, for the purpose of creating and providing a special fund to be used in acquiring a site for, and the building, equipping, repairing, remodeling and furnishing of a community mental health center, and/or facilities for the mentally retarded, or for any one or more of such purposes. The additional levy authorized by this section shall not be made until a notice of intent to make such levy has been published in a newspaper of general circulation in the county or counties involved by the board or boards of county commissioners proposing to make such levy, and such notice shall state that if a petition signed by 5% of the electors of the county shall file a protest petition within 60 days of the date of such publication a proposition will be submitted at an election called for the purpose in the county for approval of the levy; if such proposition is approved or if no sufficient protest is made, then the board of county commissioners will make the levy of such tax, but if a sufficient protest is made and such proposition is not approved, the levy will not be made. The board of county commissioners shall proceed in the manner prescribed to be followed in such notice. The tax levy may be made annually until sufficient funds have been created for the purpose or purposes, or if the county has issued and sold general obligation bonds, the proceeds raised by the annual tax levy shall be used to retire the general obligation bonds and the tax levy shall continue until the general obligation bonds have been retired. Such federal, state or private funds as may be available may be accepted by the board of county commissioners to be placed in the fund for operation of or construction of a community mental health center, and/or facility for the mentally retarded, as the case may be. Title to the building or buildings of the community mental health center, and/or facility for the mentally retarded, shall vest in the governing board which is responsible for the maintenance and operation of the facilities if a combination of counties has established the center, but, if only one county has established the mental health center or facilities for the mentally retarded, title shall vest in the board of county commissioners of such county. If the board of county commissioners has contracted with a nonprofit corporation to provide mental health services under K.S.A. 19-4007, and amendments thereto, the title to the building or buildings ~~shall may, in the discretion of the board of county commissioners,~~ vest in the board of county commissioners ~~and they~~ or the nonprofit corporation providing mental health services, and the board of county commissioners may allow the nonprofit corporation to use the buildings without charge.”;

By renumbering the sections accordingly;

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

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

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

BARBARA P. ALLEN

KAY O'CONNOR

MARK GILSTRAP

Conferees on part of Senate

JOHN EDMONDS

RAY MERRICK

BRUCE LARKIN

Conferees on part of House

Senator Allen moved the Senate adopt the Conference Committee Report on **HB 2878**. On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huel-

skamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1863—

A RESOLUTION congratulating and commending Dr. Jack Chalender.

WHEREAS, Dr. Jack Chalender is honored as an outstanding educator and community leader; and

WHEREAS, Dr. Chalender was graduated from Wellsville High School in 1943. While attending the University of Kansas, he began teaching on a provisional certificate in the same country school he had attended. The second semester of that year he organized the first kindergarten in a rural area in Kansas. In 1951 after completing his Bachelor of Education degree at the University of Kansas, he began teaching 7th grade at Overland Park Elementary School in Overland Park. He also taught 7th grade at Prairie Elementary School in Prairie Village. He was an initiator of core curriculum at the junior high level and later was recognized by national educational groups for developing core curriculum. In 1956 Dr. Chalender received his master's degree from the University of Kansas and also became the first counsellor at Milburn Junior High in Shawnee Mission. He continued working on his doctorate at the University of Kansas and completed it in 1960; and

WHEREAS, In 1960 he was named Superintendent of Valley View District Number 49 in south Overland Park. From 1969 to 1983 Dr. Chalender held various administrative positions in what came to be known as district number 512. He was a leader in health, sex, and drug education programs while Superintendent of Instruction from 1969 to 1975. He directed the writing of school evaluation procedures for 32 elementary and 10 junior high schools in the district. In 1976 Dr. Chalender was appointed Associate Superintendent for Elementary Education for district number 512. Later he became area superintendent for the north and northwest areas K-12 in Shawnee Mission. He retired from active school employment in 1983; and

WHEREAS, Dr. Chalender has been recognized as an author of numerous articles in leading educational publications as well as a lecturer and consultant to various educational institutions. He has taught summer classes and participated as a leader in various seminars in academic institutions around the country. Besides a focus on the young adolescent he has taught in the study of exceptional children. He has served as a consultant to various school districts especially in Kansas and Nebraska; and

WHEREAS, A leader for good in the community, Dr. Chalender has served it well. He was one of the leaders organizing the Johnson County YMCA. He helped in getting Overland Park's first swimming pool and was on its board. He helped in the development of the Johnson County Mental Health Association and served on its board. He served also on the board to develop a juvenile delinquency home, served on the Board of Commissioners for Fire District Number 1 and on the Board of Directors of the Shawnee Mission Chapter of the American Red Cross. He was chairman of the building committee for their present headquarters. He has been on the Board of Directors of the Children's Community Theater. He has served well in other organizations in the community, region and state; and

WHEREAS, It is entirely appropriate and fitting to honor a man who has given a lifetime of effort to improve the schools and civic organizations of his community: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Dr. Jack Chalender for giving 40 years of his life as a teacher of our youth and for his many community contributions; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Senator Vratil for presentation to Dr. Chalender.

On emergency motion of Senator Vratil **SR 1863** was adopted unanimously.

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

SENATE RESOLUTION No. 1864—

A RESOLUTION congratulating and honoring Leroy C. Tombs, Sr.

WHEREAS, Leroy C. Tombs, Sr. of Bonner Springs has had a long and distinguished career in business and community activities; and

WHEREAS, Mr. Tombs enlisted in the United States Navy in 1940. After serving on the USS Dallas and USS Guard Fish during World War II, and later on other submarines and the Navy Recruiting Office, he retired in 1963 as a chief petty officer; and

WHEREAS, In 1975, Mr. Tombs became the first black businessman to participate in the building of the Alaskan pipeline through a camp catering subcontract with Greyhound Support Services and Bechtel Corporation at Glenallen Camp, Alaska. Mr. Tombs retired from his own multi-million dollar minority-owned firm, Tombs and Sons, Inc., in 1985 after 13 years. Tombs and Sons, Inc. provided full food and accommodations service, employed 1500 employees and included total food preparation, purchasing of food, providing janitorial, domestic, lounge and beverage services and other personalized accommodations. During this time Mr. Tombs negotiated more than 50 contracts in the government and private sector and acquired the title of the “top negotiator” in the United States; and

WHEREAS, Mr. Tombs’ other business activities include ownership of an IGA grocery store; an appliance and electronic store; the King Pin Bowling Alley, Restaurant and Lounge; Crown Lincoln Mercury Ford Dealership and Tombs Janitorial, Inc.; and

WHEREAS, Mr. Tombs has been very active in political and community activities. He has been a member of the Board of Directors-Urban League; lifetime and heritage member of NAACP; Kansas Advisory Committee to the U.S. Commission on Civil Rights; State Civil Rights Board and National Civil Rights Board; State Fund Raiser for the Black College Negro Fund for the state of Kansas for 10 years; advisor to President Ronald Reagan on small business; Regional Director of the National Business League; President of and consultant to the National Association of Service Contractors; member of the Black Chamber of Commerce; secretary-treasurer of the National Association of Black Manufacturers; founder of the National Black Republican Council; member of the National Republican Party and a precinct committee person; served as Vice-President of the National Coalition of Minority Enterprise and was the cofounder of the organization, Twenty Good Men; and

WHEREAS, Mr. Tombs has received the following awards: Small Businessman of the Year, 1974; Seller of the Year, 1974, Black Economic Union; Recipient of the Frederick Douglas Award, 1980; voted numerous times as one of the top 100 Black businessmen in the United States; Legacy Award for exceptional service to the black community of the Greater Kansas City area and was honored by the city of Bonner Springs by having Neconi Avenue named Leroy C. Tombs Drive: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Leroy C. Tombs, Sr., for a most successful career in the fields of business and public service; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Leroy C. Tombs, Sr., 411 Leroy C. Tombs Drive, Bonner Springs, Kansas 66012 and to Senator Haley.

On emergency motion of Senator Haley **SR 1864** was adopted unanimously.

Mr. Tombs was a guest and was recognized for his many accomplishments.

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

SENATE RESOLUTION No. 1865—

A RESOLUTION congratulating and commending Kiddie Kollege.

WHEREAS, Kiddie Kollege Nursery School was organized in 1954 in the home of Maxine and Crawford Williams at 836 Waverly, Kansas City, Kansas, with a total of five students. As parents in the community came to realize the value of early education, popularity of the school grew rapidly. The early emphasis was placed on acceleration in academics, social skills, speech, poise and public speaking. By 1964, Kiddie Kollege had forty students in attendance. It became necessary to increase the size of the original structure so that the facility could be properly utilized. The property at 2400 North Mill Street was purchased

and a new Kiddie Kollege Child Care Center was built, just one-half block from the Williams' home. This facility housed seventy students, and the Williams' home was then used to introduce a new program of full-day kindergarten. The goal at that time was, and continues to be, excellence in educating the whole child. In 1982, Kiddie Kollege was expanded to accommodate grades 1 and 2. Another forty or more students were enrolled in Kiddie Kollege; and

WHEREAS, Kiddie Kollege Primary School was first accredited in 1990 under the leadership of Eldora Gray serving as part-time principal. Certified teachers who met Kansas state standards were hired to teach in the primary school. Kiddie Kollege attracts a cross section of children from the greater Kansas City metropolitan area which includes Overland Park plus Parkville, Raymore, Peculiar, Raytown, Lee's Summit and Kansas City, Missouri. The children are from a wide range of socio-economic homes and backgrounds. The school does not discriminate among students based on religion, race, sex, national origin or ethnic make-up. However, the school's heritage continues to primarily draw children of African-American heritage; and

WHEREAS, Following the retirement of the founder, Mrs. Williams, Trinity African Methodist Episcopal Church became the new owner of Kiddie Kollege in December 1997. Soon thereafter, the Trinity-Williams Education Corporation was established to oversee administration of the school. The corporation was granted its 501c3 nonprofit status in spring 1999; and

WHEREAS, The Trinity-Williams Education Corporation stands firm on several beliefs about a child's achievement. One of these beliefs is the degree of parental involvement in education. A major source of help has been the parent support group called the Mamas and the Papas organization, founded in 1970. Over the years, this group has provided assistance with organizing cultural field trips and benefits as well as many other helpful projects and fund-raising activities; and

WHEREAS, The success of Kiddie Kollege reflects the desire of a small number of concerned parents who wished to improve the potential of their children to succeed in contemporary America—an ideal and desire which has been highly successful, as reflected by Kiddie Kollege now attracting students from the entire greater Kansas City area: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Kiddie Kollege for the success it has had in preparing young people for further education, particularly of African-American heritage; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Senator Haley.

On emergency motion of Senator Haley **SR 1865** was adopted unanimously.

Senator Haley recognized students from the Kiddie Kollege Nursery School who were seated in the gallery.

POINT OF PERSONAL PRIVILEGE

Senator Gooch rose on a point of personal privilege to introduce and congratulate six out of the ten member Wichita State University Bowling Team, who placed 2nd in the national championships. They were accompanied by their coaches.

MESSAGE FROM THE HOUSE

Announcing passage of **SB 363**, as amended by **House Substitute for SB 363**.

The House concurs in Senate amendments to **Substitute HB 2285** and requests the Senate to return the bill.

In accordance with Joint Rule 3(d), the House appoints Representatives Wilk, Neufeld and Nichols as conferees on the part of the House on **Senate Substitute for HB 2545**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Morris the Senate nonconcurred in the House amendments to **House Substitute for SB 363** and requested a conference committee be appointed.

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

ORIGINAL MOTION

In accordance with Joint Rule 3(d), the President appointed Senators Morris, Salmans and Feleciano as a conference committee on the part of the Senate on **Senate Substitute for HB 2545**.

On motion of Senator Donovan, the Senate recessed until 1:30 p.m.

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

Announcing the House not adopts the conference committee report on **Senate Substitute for HB 2094**, requests a conference and has appointed Representatives Tanner, Lloyd and Reardon as second conferees on the part of the House.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **HB 2665**.

CONFERENCE COMMITTEE REPORT

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

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

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

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

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

NANCEY HARRINGTON
 PETE BRUNGARDT
 U. L. GOOCH
Conferees on part of Senate

DOUG MAYS
 BECKY HUTCHINS
 RICK REHORN
Conferees on part of House

Senator Brungardt moved the Senate adopt the Conference Committee Report on **HB 2020**.

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

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

Nays: Huelskamp.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2665**, submits the following report:

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

On page 6, after line 32, by inserting the following:

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

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

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

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

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

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

(f) “Critical access hospital” means a member of a rural health network which makes available twenty-four hour emergency care services; provides not more than 15 acute care inpatient beds ~~for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions); except that a peer review organization or equivalent entity, on request, may waive the ninety-six hour restriction on a case-by-case basis, provides inpatient extended care services (if there is in effect or in the case of a facility with an approved swing-bed agreement) so long as the a combined total of extended care and acute care beds that does not exceed 25 beds (provided that the number of beds used at any time for acute care inpatient services does not exceed 15 beds); provides acute inpatient care for a period that does not exceed, on an annual average basis, 96 hours per patient; and provides nursing services under the direction of a licensed professional nurse and continuous licensed professional nursing services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients unless an exemption is granted by the licensing agency pursuant to rules and regulations. The critical access hospital may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist and radiological technologist on a part-time, off-site basis under written agreements or arrangements with one or more providers or suppliers recognized under medicare. The critical access hospital may provide inpatient services by a physician’s assistant, nurse practitioner or a clinical nurse specialist subject to the oversight of a physician who need not be present in the facility.~~

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

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

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

~~(b) “Occupational therapy” is a health care profession whose practitioners, other than occupational therapy practitioners working with the educationally handicapped in a school~~

system, are employed under the supervision of a physician and whose practitioners provide therapy, rehabilitation, diagnostic evaluation, care and education of individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities or the aging process in order to maximize independence, prevent disability and maintain health. Specific occupational therapy services include:

- ~~—(1) Administering and interpreting tests necessary for effective treatment planning;~~
- ~~—(2) developing self-care and daily living skills such as feeding, dressing, hygiene and homemaking;~~
- ~~—(3) designing, fabricating, applying or training, or any combination thereof, in the use of selected orthotics, upper extremity prosthetics or adaptive equipment;~~
- ~~—(4) developing sensory integrative skills and functioning;~~
- ~~—(5) using therapeutic activity and exercise to enhance functional or motor performance, or both;~~
- ~~—(6) developing prevocational/vocational work capacities and play/leisure skills, and~~
- ~~—(7) adapting environment for the disabled.~~

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

- (1) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological cognitive processes;
- (2) adaptation of tasks, process, or the environment or the teaching of compensatory techniques in order to enhance performance;
- (3) disability prevention methods and techniques that facilitate the development or safe application of performance skills; and
- (4) health promotion strategies and practices that enhance performance abilities.

(c) *“Occupational therapy services” include, but are not limited to:*

- (1) Evaluating, developing, improving, sustaining, or restoring skills in activities of daily living (ADL), work or productive activities, including instrumental activities of daily living (IADL) and play and leisure activities;
- (2) evaluating, developing, remediating, or restoring sensorimotor, cognitive or psychosocial components of performance;
- (3) designing, fabricating, applying, or training in the use of assistive technology or orthotic devices and training in the use of prosthetic devices;
- (4) adapting environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;
- (5) applying physical agent modalities as an adjunct to or in preparation for engagement in occupations;
- (6) evaluating and providing intervention in collaboration with the client, family, caregiver or others;
- (7) educating the client, family, caregiver or others in carrying out appropriate non-skilled interventions; and
- (8) consulting with groups, programs, organizations or communities to provide population-based services.

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

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

~~(f)~~ (f) *“Person” means any individual, partnership, unincorporated organization or corporation.*

~~(g)~~ (g) *“Physician” means a person licensed to practice medicine and surgery.*

(h) *“Occupational therapy aide,” “occupational therapy tech” or “occupational therapy paraprofessional” means a person who provides supportive services to occupational thera-*

pists and occupational therapy assistants in accordance with section 14 and amendments thereto.

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

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

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

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

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

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

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

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

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

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

Sec. 8. On April 1, 2003, K.S.A. 2001 Supp. 65-5408 is hereby amended to read as follows: 65-5408. (a) ~~The board shall waive the examination, education and experience requirements and grant registration to any person who applies for registration on or before July 1, 1987, who pays the application fee and who was certified prior to the effective date of this act as an occupational therapist registered (O.T.R.) or a certified occupational therapy assistant (C.O.T.A.) by the American occupational therapy association (A.O.T.A.) or who has been employed as an occupational therapist for the purpose of providing occupational therapy for at least two years within the three-year period immediately prior to the effective date of this act.~~ (b) The board may waive the examination, education or experience require-

ments and grant ~~registration licensure~~ to any applicant who ~~shall present~~ *presents* proof of current licensure or registration as an occupational therapist or occupational therapy assistant in another state, the District of Columbia or territory of the United States which requires standards for licensure or registration determined by the board to be equivalent to or exceed the requirements for ~~registration licensure~~ under this act.

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

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

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

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

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

Sec. 10. On April 1, 2003, K.S.A. 65-5410 is hereby amended to read as follows: 65-5410. (a) The board may deny, refuse to renew, suspend or revoke a ~~registration license~~ where the ~~registrant licensee~~ or applicant for ~~registration licensure~~ has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

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

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

to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement.

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

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

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

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

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

(b) The practice of occupational therapy shall not be construed to include the following:

- (1) Persons rendering assistance in the case of an emergency;
- (2) members of any church practicing their religious tenets;
- (3) persons whose services are performed pursuant to the delegation of and under the supervision of an occupational therapist who is licensed under this act;
- (4) any person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency thereof, if such person practices occupational therapy solely under the direction or control of the organization by which such person is employed;
- (5) licensees under the healing arts act when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to a delegation authorized under subsection (g) of K.S.A. 65-2872 and amendments thereto;
- (6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;
- (7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under subsection (m) of K.S.A. 65-1124 and amendments thereto;
- (8) health care providers who have been formally trained and are practicing in accordance with the training or have received specific training in one or more functions included in the occupational therapy practice act pursuant to established educational protocols, or both;

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

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

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

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

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

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

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

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

(17) manufacturers of prosthetic devices;

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

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

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

(e) Nothing in the occupational therapy practice act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon occupational therapists to engage in any activity not conferred by the occupational therapy practice act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A therapeutic licensee certified to treat adult open-angle glaucoma as provided herein shall be held to a standard of care in the use of such agents in diagnosis and treatment commensurate to that of a person licensed to practice medicine and surgery, who exercises that degree of skill and proficiency commonly exercised by an ordinary, skillful, careful and prudent person licensed to practice medicine and surgery.

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

(e) Under the direction and supervision of a therapeutic licensee, a licensed professional nurse, licensed practical nurse, registered physical therapist and ~~registered~~ *licensed* occupational therapist may assist in the provision of low vision rehabilitation services in addition to such other services which such licensed professional nurse, licensed practical nurse, registered physical therapist and ~~registered~~ *licensed* occupational therapist is authorized by law

to provide under subsection (d) of K.S.A. 65-1113, subsection (h) of K.S.A. 65-1124, subsection (b) of K.S.A. 65-2901 and subsection (b) of K.S.A. 65-5402, and amendments thereto.

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

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

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

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

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

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

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

(2) "Health care provider group" means:

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

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

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

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

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

(F) a health care provider;

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

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

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

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

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

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

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

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

(E) reduce morbidity or mortality;

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

(G) conduct of research;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

licensed by the state board of healing arts, an occupational therapy assistant ~~registered~~ *licensed* by the state board of healing arts and a respiratory therapist licensed by the state board of healing arts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) "Minor office procedures" means care incidental to superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues,

except eyes, and not involving blood vessels, tendons, ligaments or nerves. "Minor office procedures" includes use of antiseptics, but shall not include the suturing, repairing, alteration or removal of tissue or the use of general or spinal anesthesia. Minor office procedures does not include anesthetics or surgery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Obtaining a registration by means of fraud, misrepresentation or concealment of material facts;

(2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;

(3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a naturopathic doctor;

(4) violating any lawful order or rule and regulation of the board; and

(5) violating any provision of this act.

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

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

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

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

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

New Sec. 29. (a) The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person designated by the president of the board.

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

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

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

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

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

New Sec. 31. (a) The board shall adopt a naturopathic formulary which lists the drugs and substances which are approved for intramuscular or intravenous administration by a naturopathic doctor pursuant to the order of a physician. The board shall appoint a naturopathic formulary advisory committee which shall advise the board and make recommendations on the list of substances which may be included in the naturopathic formulary. The

naturopathic formulary advisory committee shall consist of a licensed pharmacist, a person knowledgeable in medicinal plant chemistry, two persons licensed to practice medicine and surgery, and two naturopathic doctors registered under this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And by renumbering sections accordingly;

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

“Sec. 39. On January 1, 2003, K.S.A. 65-2872a is hereby repealed.

Sec. 40. On April 1, 2003, K.S.A. 65-5402, 65-5405, 65-5406, 65-5407, 65-5410, 65-5412 and 65-5414 and K.S.A. 2001 Supp. 65-1501, 65-2891, 65-5408, 65-5409, 65-4915 and 65-4921 are hereby repealed.

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

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

SUSAN WAGLE
JIM BARNETT
DAVID HALEY
Conferees on part of Senate

GARRY BOSTON
JIM MORRISON
JUDY SHOWALTER
Conferees on part of House

Senator Wagle moved the Senate adopt the Conference Committee Report on **HB 2665**

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, Clark, Corbin, Downey, Emler, Feleci-ano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Brungardt, Donovan, Kerr.

The Conference Committee report was adopted.

ORIGINAL MOTION

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2094**.

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

REPORT ON ENROLLED BILLS

SB 400; Sub SB 430; SB 502, SB 541, SB 543, SB 618 reported correctly enrolled, properly signed and presented to the governor on May 10, 2002.

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

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

MESSAGE FROM THE HOUSE

Announcing the House accedes to the request of the Senate for a conference on **House Substitute for SB 363** and has appointed Representatives Wilk, Neufeld and Nichols as conferees on the part of the House.

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 2030**, **HB 2145**, **HB 2896**, **HB 3023**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2145**, submits the following report:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2. K.S.A. 8-1556 is hereby repealed.”;

By renumbering the remaining section accordingly;

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

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

LESLIE DONOVAN

LARRY D. SALMANS

U. L. GOOCH

Conferees on part of Senate

GARY K. HAYZLETT

JENE VICKREY

MARGARET E. LONG

Conferees on part of House

Senator Donovan moved the Senate adopt the Conference Committee Report on **HB 2145**.

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

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

The Conference Committee report was adopted.

REPORT ON ENGROSSED BILLS

SB 429; Sub SB 545; H Sub for SB 605 reported correctly engrossed May 10, 2002.

Also, **SB 297, SB 489, SB 499; SCR 1623** correctly re-engrossed May 10, 2002.

COMMITTEE OF THE WHOLE

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

On motion of Senator Jordan the following report was adopted:

Recommended **HB 3023** be passed.

HB 2030 be amended by adoption of the committee amendments, be further amended by motion of Senator Jackson as amended by Senate Committee, on page 19, in line 37, after "investment" by inserting ", in the state as defined in subsection (d),"; in line 38, by striking "; but not more than \$125,000,000"; in line 39, after "years" by inserting "from the effective date of this act or within five years";

On page 20, after line 2, by inserting the following:

"(d) "invest" or "investment" for the purpose of determining the eligibility of an establishment for the incentive payments created pursuant to this act, means an amount greater than the average amount invested by the establishment over the five years prior to the effective date of this act or for investments made after July 1, 2003, over the five years prior to entering into a contract with the secretary. If an establishment has been engaged in commercial operations for less than five years, the amount invested shall be greater than the annual average amount invested by the establishment for the entire period of commercial operation.";

Also on page 20, in line 5, by striking "\$20,000,000" and inserting "\$10,000,000"; in line 8, by striking "\$6.25" and inserting "\$5"; in line 16, by striking "the benefit" and inserting "modernizing and retooling"; also in line 16, following "establishment" by inserting "in the state"; in line 20, by striking all after the comma; in line 21, by striking all before the period and inserting "and amendments thereto, but no such transfer shall commence prior to July 1, 2003"; in line 33, by striking "\$6.25" and inserting "\$5"; in line 41, by striking "further purposes of this act" and inserting "administer this act. The secretary may include provisions in the contract to reduce the amount of eligible tax credits or other benefits on the investment to support bond repayment". **HB 2030** be passed as further amended.

A motion by Senator Oleen to amend **HB 2030** failed and the following amendment was rejected: as amended by Senate Committee, on page 21, after line 2, by inserting the following:

"Sec. 5. The term "public utility" within the meaning of K.S.A. 66-104, and amendments thereto, shall not include any person or entity in the business of being a landlord who is supplied water by a city or water district and who furnishes such water to its tenants pursuant to subsection (a)(5) of K.S.A. 58-2553 or subsection (a)(6) of K.S.A. 58-25,111, and amendments thereto, with or without the use of a separate meter to measure the water furnished to the tenant, so long as the landlord charges the tenant at the same rate charged by the city or water district to the landlord, plus the actual cost of the billing and collection of such charge. The furnishing of water by a landlord to a tenant in accordance with this section shall not be construed as a sale for resale which may be subject to the jurisdiction of the state corporation commission.";

And the remaining section be renumbered accordingly;

In the title, on page 1, in line 16, before the period by inserting “; certain activities of landlords not subject to jurisdiction of state corporation commission”

HB 2896 be amended by adoption of the committee amendments, be further amended by motion by Senator Jackson as amended by Senate Committee, on page 2, in line 21, by striking “from” and inserting “in”;

On page 3, in line 17, before “(a)” by inserting “subsection”; in line 19, by striking all after “the”; in line 20, by striking all before “the” and inserting “appropriate state general fund account of the department of education to”; in line 23, by striking all after the period; by striking all in line 24

Senator Emler further amended the bill as amended by Senate Committee, on page 1, in line 38, after the period by inserting “For the 2002 football season, Kansas state university and Kansas university are not required to collect such surcharge for a designated football intercollegiate athletic event or contest.”;

On page 2, in line 24, after “(d)” by inserting “The state of Kansas sports hall of fame board of trustees, in consultation with the accredited independent institutions, shall develop and implement a plan to have the accredited independent institutions participate in the raising of funds for the Kansas sports hall of fame.

(e) In lieu of the surcharge which will not be collected by Kansas state university and Kansas university for the 2002 football season, Kansas state university and Kansas university, in consultation with the state of Kansas sports hall of fame board of trustees, shall develop and implement a plan to raise \$15,000 from each university to assist in the funding of the Kansas sports hall of fame. If \$15,000 is not paid to the Kansas sports hall of fame surcharge fund by each university on or before January 15, 2003, the Kansas sports hall of fame board shall notify the chief executive officer of the Kansas board of regents. The chief executive officer shall determine whether such money has been paid. Any amount not paid shall be certified to the director of accounts and reports on or before February 1, 2003. Upon receipt of each such certification, the director of accounts and reports shall transfer the amount certified from the specified general fees fund or any other state general fund account of each university into the Kansas sports hall of fame surcharge fund. As part of the certification, the chief executive officer shall designate the appropriate state general fund account.

(f) Annually, on or before September 1, the state of Kansas sports hall of fame board of trustees shall electronically submit a report to the chairperson of the legislative educational planning committee concerning the progress and provisions of this act.

(g);

Also on page 2, after line 27, by inserting the following:

“(h) The provisions of this section shall expire on July 1, 2006.”;

On page 3, after line 24, by inserting the following:

“(d) The provisions of this section shall expire on July 1, 2006.”;

On page 4, in line 8, by striking all after the period; by striking all of lines 9 through 16; in line 17, by striking “(f)” and inserting “(e)”, and **HB 2896** be passed as further amended.

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 2030**, **HB 2896**, **HB 3023** were advanced to Final Action and roll call.

HB 2030, An act providing incentives for certain businesses; prescribing duties and authorities for the Kansas development finance authority and the secretary of commerce and housing relating thereto.

On roll call, the vote was: Yeas 33, Nays 4, Present and Passing 3, Absent or Not Voting 0.

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

Nays: Clark, Huelskamp, Lyon, Tyson.

Present and Passing: Downey, Goodwin, Haley.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **HB 2030**. The Topeka Goodyear plant is one of the true economic pillars of my community. At Goodyear, they build and distribute the finest tires in America, and I know that because they are built in Topeka, Kansas, by Kansas citizens. The Goodyear workers are a tremendous source of pride to our community.

It is vitally important that we do what we can to maintain a competitive edge for the Topeka plant. This bill is not a tax credit incentive for a huge, international corporation, this is for the hundreds of Kansans who are currently employed at Goodyear, and for the thousands of retirees who have made Kansas their permanent home.

The strong support for this bill in the Kansas Senate sends a clear message to corporate Goodyear: "We want you to stay in Kansas."—ANTHONY HENSLEY

HB 2896. An act concerning the Kansas sports hall of fame; relating to funding therefor; concerning state of Kansas sports hall of fame board of trustees membership; amending K.S.A. 2001 Supp. 74-2906a and repealing the existing section.

On roll call, the vote was: Yeas 25, Nays 14, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Barnett, Brownlee, Brungardt, Clark, Emler, Gilstrap, Haley, Jackson, Jenkins, Jordan, Kerr, Lee, Morris, O'Connor, Oleen, Praeger, Salmans, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil.

Nays: Allen, Barone, Corbin, Donovan, Downey, Feleciano, Gooch, Goodwin, Hensley, Huelskamp, Lyon, Pugh, Schmidt, Wagle.

Present and Passing: Harrington.

The bill passed, as amended.

HB 3023. An act relating to property taxation; concerning the determination of fair market value; amending K.S.A. 79-503a and repealing the existing section.

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

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

Nays: Schodorf.

The bill passed.

MESSAGE FROM THE HOUSE

Announcing the House adopts the Conference Committee Report to agree to disagree on **SB 39** and has appointed Representatives Edmonds, Huff and Larkin as second conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2795** and requests a conference and has appointed Representatives Edmonds, Huff and Larkin as conferees on the part of the House.

The House concurs in Senate amendments to **HB 2642** and requests the Senate to return the bill.

The House concurs in Senate amendments to **HB 2996** and requests the Senate to return the bill.

The House not adopts the conference committee report on **House Substitute for SB 296**, requests a conference and has appointed Representatives Holmes, Sloan and Dillmore as second conferees on the part of the House.

The House not adopts the conference committee report on **HB 2802**, requests a conference and has appointed Representatives O'Neal, Loyd and Pauls as second conferees on the part of the House.

The House adopts the conference committee report on **SB 474**.

The House adopts the conference committee report on **SB 475**.

The House adopts the conference committee report on **HB 2247**.

The House adopts the conference committee report on **HB 2630**.

The House adopts the conference committee report on **HB 2709**.

The House adopts the conference committee report on **HB 2752**.

The House adopts the conference committee report on **Substitute HB 2872**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 39**, submits the following report:

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

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

JOHN EDMONDS

DAVID HUFF

Conferees on part of House

DAVID R. CORBIN

JANIS K. LEE

Conferees on part of Senate

On motion of Senator Corbin, the Senate adopted the conference committee report on **SB 39**, and requested a new conference committee be appointed.

The President appointed Senators Corbin, Donovan and Lee as a second Conference Committee on the part of the Senate on **SB 39**.

ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **H Sub for Sub SB 296**.

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

On motion of Senator Corbin, the Senate acceded to the request of the House for a conference on **HB 2795**.

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

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2802**.

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

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Saturday, May 11, 2002.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

