

Journal of the House

SIXTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, May 3, 2004, 1:30 p.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 121 members present.
Reps. Huff, Powell, Schwab and D. Williams were excused on excused absence by the Speaker.

Present later: Rep. Schwab.

Prayer by Chaplain Chamberlain:

Almighty God,

Hear our prayers this day. It's hard to be close. It's hard to be "almost done." It's hard to maintain our focus in the present when we want tomorrow to come so badly.

God of our past, present, and future, focus us now on the task at hand. Help us to give it as much attention and energy as we did to the first task of our gathering. Protect us from the haste that harms and from the delay that frustrates.

Lord, draw the work of this House to a conclusion that is pleasing in your sight and a blessing for your children. Amen.

The Pledge of Allegiance was led by Rep. Huntington.

MESSAGES FROM THE SENATE

The Senate adopts conference committee report on **SB 29**.

The Senate adopts conference committee report on **SB 432**.

Also, the Senate adopts conference committee report on **HCR 5005**.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, pursuant to House Rule 2307, the following bill and resolutions were stricken from the calendar:

HCR 5031; SB 405; SCR 1616.

On motion of Rep. Aurand, the House recessed until 2:30 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker Mays in the chair.

CONFERENCE COMMITTEE REPORT

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

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Amended by Senate on Final Action, as follows:

On page 1, by striking all in lines 22 through 43;

By striking all on pages 2 through 16 and inserting:

"New Section 1. (a) Any person issued a special permit under the provisions of K.S.A. 8-1911, and amendments thereto, for the purpose of moving cotton modules on the highways of this state, shall be allowed to move such cotton modules 24-hours per day. Such person shall comply with all applicable provisions of K.S.A. 8-1911, and amendments thereto, and rules and regulations adopted by the secretary.

(b) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

New Sec. 2. As applied to the regulation of motor carriers, the provisions of this act and all grants of power, authority and jurisdiction herein made to the state corporation commission shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of this act are expressly granted to and conferred upon the state corporation commission.

New Sec. 3. The state corporation commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 66-1,108, and amendments thereto, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction. The commission shall have general supervision of all motor carriers operating in this state. The commission shall inquire into any neglect or violations of the laws pertaining to the regulation of motor carriers of this state by any motor carrier or any person retaining the transportation services of that motor carrier. From time to time, the commission shall carefully examine and inspect the condition of each motor carrier, its equipment, the manner of its conduct and its management with reference to the public safety and convenience. Nothing in this section shall be construed as relieving any motor carrier from responsibility or liability for damage to person or property.

New Sec. 4. The state corporation commission shall have the authority to examine all accounts and records pertaining to its regulation of motor carriers. The agents, accountants, examiners or inspectors designated by the commission shall have authority under the direction of the transportation division to inspect and examine any and all books, accounts, papers, records, property and memoranda pertinent to its regulation of motor carriers.

Sec. 5. K.S.A. 2003 Supp. 66-1,108 is hereby amended to read as follows: 66-1,108. As used in this act:

(a) "Commission" means the corporation commission of the state of Kansas;

(b) "gross combination vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon;

(c) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single motor vehicle;

(d) "ground water well drilling rigs" means any vehicle, machine, tractor, trailer, semi-trailer or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water;

(~~(d)~~) (e) "household goods" means property and personal effects used or to be used in a dwelling, when a part of the equipment or supply of such dwelling and such other similar property, as the commission may provide by rules and regulations, if the transportation of such effects or property is:

(1) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in such householder's dwelling; or

(2) arranged and paid for by another party.

(~~(e)~~) (f) "Motor carrier" means any person operating as a for hire motor carrier or a private motor carrier, and any of that person's agents, officers, representatives, as well as employees responsible for hiring, supervising, training, assigning or dispatching of drivers and

employees concerned with the installation, inspection and maintenance of motor vehicle equipment or accessories or both;

~~(f)~~ (g) "motor vehicle" means any automobile, truck, trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of the state for the purpose of transporting persons or property;

~~(g)~~ (h) "person" means any individual, firm, partnership, limited liability partnership, corporation, limited liability company, association or their lessees, trustees or receivers;

~~(h)~~ (i) "private motor carrier" means a person who provides transportation of property or passengers, by commercial vehicle and is not a for hire motor carrier;

~~(i)~~ (j) "public highways" means every public street, alley, road or highway or thoroughfare of any kind used by the public;

~~(j)~~ (k) "public motor carrier of household goods" means any person who undertakes for hire to transport by motor vehicle from place to place, the household goods of others who may choose to employ or contract with the motor carrier;

~~(k)~~ (l) "public motor carrier of passengers" means any person who undertakes for hire to transport by motor vehicle, from place to place, persons who may choose to employ or contract with the motor carrier; and

~~(l)~~ (m) "public motor carrier of property" means any person who undertakes for hire to transport by motor vehicle, from place to place, the property other than household goods of others who may choose to employ or contract with the motor carrier.

Sec. 6. K.S.A. 2003 Supp. 66-1,109 is hereby amended to read as follows: 66-1,109. This act shall not require the following carriers to obtain a certificate, license or permit from the commission or file rates, tariffs, annual reports or provide proof of insurance with the commission:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and the suburban territory in this state within three miles of the corporate limits, or between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority, except that none of the exemptions specified in this subsection (a) shall apply to wrecker carriers and none of such exemptions shall apply to motor carriers of passengers, other than motor carriers of passengers operating as a part of the general transit system serving any such city or village in this or another state, operating on regular routes and time schedules between any city or village in this or another state, and the suburban territory in this state;

(b) a private motor carrier who operates within a radius of 25 miles beyond the corporate limits of its city or village of domicile, or who operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority;

(c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) persons operating motor vehicles used only to transport property when no common carrier is accessible, but when common-carrier service is available then this last exemption is limited to the transportation of such property from origin to the nearest practicable common-carrier receiving or loading point, or from a common-carrier unloading point by way of the shortest practicable route to destination, providing such motor vehicle does not pass a practicable delivery or receiving point of a common carrier equipped to transport such load, or when used to transport property from the point of origin to point of destination thereof when the destination of such property is less distant from the point of origin thereof than the nearest practicable common-carrier receiving or loading point equipped to transport such load;

(e) (1) the transportation of children to and from school, or (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions,

or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities;

(f) a new vehicle dealer as defined by K.S.A. 8-2401, and amendments thereto, when transporting property to or from the place of business of such dealer;

(g) motor vehicles carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale;

(h) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

(i) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;

(j) motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail, and the operation of motor vehicles used exclusively by organizations operating public transportation systems pursuant to 49 U.S.C. sections 5307, 5310 and 5311;

(k) any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;

(l) motor vehicles used to transport water for domestic purposes, *as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto*, or livestock consumption;

(m) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete paving mixtures, blacktop, dirt or fill material to a construction site, highway maintenance or construction project or other storage facility and the operation of ready-mix concrete trucks in transportation of ready-mix concrete;

(n) the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;

(o) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

(p) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state;

(q) transportation by taxi or bus companies operated exclusively within any city or within 25 miles of the point of its domicile in a city;

(r) a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;

(s) any person operating a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, transporting property sold or to be sold by the owner or operator of such motor vehicle, except motor vehicles transporting hazardous materials which require placards;

(t) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers; ~~and~~

(u) transportation of newspapers published at least one time each week;

(v) *transportation of animal dung to be used for fertilizer; and*

(w) *the operation of ground water well drilling rigs.*

Sec. 7. K.S.A. 2003 Supp. 66-1,129 is hereby amended to read as follows: 66-1,129. (a) The commission shall adopt rules and regulations necessary to carry out the provisions of this act. No public motor carrier of property, household goods or passengers or private

motor carrier of property shall operate or allow the operation of any motor vehicle on any public highway in this state except within the provisions of the rules and regulations adopted by the commission. Rules and regulations adopted by the commission shall include:

(1) Every vehicle unit shall be maintained in a safe and sanitary condition at all times.

(2) Every driver of a public motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 18 years of age. Every driver of a private motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 16 years of age. All such drivers shall be competent to operate the motor vehicle under such driver's charge.

(3) Minimum age requirements for every driver of a motor carrier, operating as a carrier of interstate commerce, shall be consistent with federal motor carrier regulations.

(4) Hours of service for operators of all motor carriers to which this act applies shall be fixed by the commission.

(5) Accidents arising from or in connection with the operation of motor carriers shall be reported to the commission within the time, in the detail and in the manner as the commission requires.

(6) Every motor carrier shall have attached to each unit or vehicle distinctive marking adopted by the commission.

(7) Motor carrier transportation requirements that are consistent with continuation of the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous materials.

(b) No rules and regulations adopted by the commission pursuant to this section shall require the operator of any motor vehicle having a gross vehicle weight rating or gross combination weight rating of not more than 10,000 pounds to submit to a physical examination, unless required by federal laws or regulations.

(c) Any rules and regulations of the commission, adopted pursuant to this section, shall not apply to the following, while engaged in the carriage of intrastate commerce in this state:

(1) The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.

(2) The transportation of children to and from school, or to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities.

(3) (A) Except for motor vehicles under subparagraph (B), motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards.

(B) Except vehicles transporting hazardous materials which require placards, motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work and such tools, property or material are being transported to or from an active construction site located within a radius of 25 miles of the principal place of business of the motor carrier.

(4) Persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles.

(5) The operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers.

(6) Motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivisions of this state.

(7) Any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work.

(8) Motor vehicles used to transport water for domestic purposes, *as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto*, or livestock consumption.

(9) The operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state, unless the implement of husbandry is transported on a commercial motor vehicle.

Sec. 8. K.S.A. 66-1,142b is hereby amended to read as follows: 66-1,142b. (a) Any ~~motor carrier person~~ violating any statute, commission orders or rules and regulations ~~relevant to motor carriers~~ adopted by the state corporation commission *pursuant to the motor carrier act and other laws relevant to motor carriers* shall be subject to a civil penalty of not less than \$100 and not more than \$1,000 for negligent violations, and not more than \$5,000 for intentional violations.

(b) In construing and enforcing a civil penalty in accordance with this section, any act, omission or failure of any officer, agent or other person acting for or employed by any motor carrier while acting within the scope of such person's employment, shall in every case be deemed the act, omission or failure of the motor carrier.

(c) Every day during which the ~~motor carrier person~~ fails to comply with any order ~~or direction~~ of the commission, or any applicable statute, rule or regulation, shall constitute a separate and distinct violation.

(d) Civil penalties shall be enforced and collected by an attorney for the corporation commission in the appropriate district court.

(e) Civil penalties shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the motor carrier license fee fund.

(f) The commission is granted the power, by general order or otherwise, to prescribe reasonable rules and regulations for the assessment of administrative civil penalties and sanctions for violations of any statute, commission orders or rules and regulations adopted by the commission.

Sec. 9. K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,108, 66-1,109 and 66-1,129 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all of lines 14 through 19 and inserting: “AN ACT relating to motor vehicles; concerning the regulation thereof; relating to motor carriers; amending K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,108, 66-1,109 and 66-1,129 and repealing the existing sections.”;

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

STEPHEN R. MORRIS
DAVID ADKINS
CHRISTINE DOWNEY
Conferees on part of Senate

MELVIN J. NEUFELD
CLARK SCHULTZ
JOE SHRIVER
Conferees on part of House

On motion of Rep. Neufeld, the conference committee report on **HB 2067** was adopted.

Call of the House was demanded.

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

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Huff, Powell, D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2758**, 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, in line 10, following "Records" by inserting ", other than criminal investigation records,"; in line 13, by striking "or" where it appears for the second time; also in line 13, following "(B)" by inserting "transportation and"; in line 14, preceding the period, by inserting "; or (C) private property or persons, if the records are submitted to the agency for the purposes of this paragraph"; in line 19, following the period, by inserting "Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.";

On page 7, following line 34, by inserting:

"Sec. 2. K.S.A. 2003 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) preliminary discussions relating to the acquisition of real property;

(7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;

(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 38-1507 and amendments thereto or subsection (f) of K.S.A. 38-1508 and amendments thereto;

(9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;

(10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;

(11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;

(12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

(13) matters relating to ~~the security of a public body or agency, public building or facility or the information system of a public body or agency~~ *security measures*, if the discussion of such matters at an open meeting would jeopardize the security of such public body, agency, building, facility or information system, and such security measures, that protect: (A) *Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services;* (B) *transportation and sewer or wastewater treatment systems, facilities or equipment;* (C) *a public body or agency, public building or facility or the information system of a public body or agency;* or (D) *private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments; and*

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

Sec. 3. K.S.A. 75-4320 is hereby amended to read as follows: 75-4320. (a) Any member of a body or agency subject to this act who knowingly violates any of the provisions of this act or who intentionally fails to furnish information as required by subsection (b) of K.S.A. 75-4318, and amendments thereto, shall be liable for the payment of a civil penalty in an action brought by the attorney general or county or district attorney, in a sum set by the court of not to exceed ~~five hundred dollars (\$500)~~ \$500 for each violation. In addition, any binding action which is taken at a meeting not in substantial compliance with the provisions of this act shall be voidable in any action brought by the attorney general or county or district attorney in the district court of the county in which the meeting was held within ~~ten~~ (10) 21 days of the meeting, and the court shall have jurisdiction to issue injunctions or writs of mandamus to enforce the provisions of this act.

(b) Civil penalties sued for and recovered hereunder by the attorney general shall be paid into the state general fund. Civil penalties sued for and recovered hereunder by a county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.”;

By renumbering sections accordingly;

Also on page 7, in line 35, following “K.S.A.” by inserting “75-4320 and K.S.A.”; also in line 35, by striking “is” and inserting “and 75-4319 are”;

In the title, in line 12, by striking “the Kansas” and inserting “public information; relating to”; also in line 12, by striking “act”; also in line 12, by striking all following the semicolon; in line 13, by striking all preceding the semicolon and inserting “relating to open meetings”; also in line 13, following “K.S.A.” by inserting “75-4320 and K.S.A.”; also in line 13, following “45-221” by inserting “and 75-4319”; in line 14, by striking “section” and inserting “sections”;

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

BARBARA P. ALLEN
KAY O'CONNOR
DONALD BETTS, JR.
Conferees on part of Senate

JENE VICKREY
RALPH OSTMEYER
ROGER TOELKES
Conferees on part of House

On motion of Rep. Vickrey, the conference committee report on **HB 2758** was adopted.
On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Logambill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Huff, Powell, D. Williams.

CHANGE OF CONFEREES

Speaker Mays announced the appointment of Reps. O'Neal, Patterson and Pauls as members of the conference committee on **HB 2585** to replace Reps. Vickrey, Ostmeyer and Thimesch.

MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **SB 552**.

INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, pursuant to House Rule 2303, Rep. Ballou moved that the House reconsider its adverse action in not adopting the conference committee report on **SB 317** (see House Journal, pages 2013-2018). The motion prevailed.

The question then reverted back to the motion of Rep. O'Neal to adopt the conference committee report on **SB 317**. Rep. O'Neal then offered a substitute motion to not adopt the conference committee report and that a new conference committee be appointed. The motion prevailed.

Speaker Mays thereupon appointed Reps. O'Neal, Patterson and Pauls as second conferees on the part of the House.

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

Speaker Mays called the House to order.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 393**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 393**, 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.

KATHE DECKER
MICHAEL R. O'NEAL
Conferees on part of House

DWAYNE UMBARGER
JOHN VRATIL
Conferees on part of Senate

On motion of Rep. Decker to adopt the conference committee report on **SB 393**, the motion did not prevail, and the bill remains in conference (see further action, Afternoon Session).

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 387**, submits the following report:

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

On page 7, by striking all in lines 9 through 28;

By renumbering the remaining sections accordingly;

Also on page 7, in line 29, by striking "K.S.A. 75-4320 and";

In the title, in line 14, by striking all after "ACT"; in line 15, by striking all preceding "relating"; in line 18, by striking all after "amending";

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

LEE E. TAFANELLI
CARL C. KREHBIEL
JOE SHRIVER
Conferees on part of House

BARBARA P. ALLEN
JAY SCOTT EMLER
DONALD BETTS, JR.
Conferees on part of Senate

On motion of Rep. Tafanelli, the conference committee report on **SB 387** was adopted.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Huff, Mason, Powell, D. Williams.

INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, pursuant to House Rule 2303, Rep. Schwartz moved that the House reconsider its action in not adopting the conference committee report on **SB 393** to agree to disagree (see previous action, Afternoon Session). Roll call was demanded.

On roll call, the vote was: Yeas 59; Nays 63; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballou, Barbieri-Lightner, Beggs, Bethell, Brunk, Burgess, Carter, Compton, Craft, Dahl, DeCastro, Decker, Dreher, Edmonds, Faber, Freeborn, Goering, Goico, Gordon, Hayzlett, Holmes, Horst, Howell, Huebert, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kauffman, Krehbiel, Landwehr, Long-Mast, Loyd, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Myers, Neufeld, Novascone, O'Neal, Osborne, Ostmeyer, Patterson, Pottorff, Schwab, Schwartz, Shultz, Siegfried, Sloan, Tafanelli, Vickrey, Wilk.

Nays: Ballard, Boyer, Burroughs, Campbell, Carlin, Cox, Crow, Davis, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Grant, Henderson, Henry, Hill, Holland, Jack, Kassebaum, Kirk, Klein, Kuether, Lane, Larkin, Light, Loganbill, M. Long, McKinney, J. Miller, Minor, Judy Morrison, Neighbor, Newton, O'Malley, Owens, Pauls, Phelps, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Storm, Svaty, Swenson, Thimesch, Thull, Toelkes, Ward, J. Williams, Wilson, Winn, Yoder, Yonally.

Present but not voting: None.

Absent or not voting: Huff, Powell, D. Williams.

The motion did not prevail and **SB 393** remains in conference.

REPORT ON ENROLLED BILLS

HB 2037, HB 2101, HB 2201, HB 2545, HB 2557, HB 2563, HB 2568, HB 2571, HB 2606, HB 2617, HB 2653, HB 2682, HB 2745 reported correctly enrolled, properly signed and presented to the governor on May 3, 2004

REPORT ON ENROLLED RESOLUTIONS

HR 6033, HR 6036 reported correctly enrolled and properly signed on May 3, 2004.

On motion of Rep. Aurand, the House adjourned until 10:00 a.m., Tuesday, May 4, 2004.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

