

Journal of the Senate

FIFTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, April 28, 2004—10:00 a.m.

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

Heavenly Father,

As we begin the wrap-up session, I think it is appropriate that we recall the rich biblical heritage with which elected officials are blessed in America.

Their biblical relationship to You, Lord, has been spelled out by You through Your apostle Paul's letter to the Romans: "The authorities that exist have been established by God." (Romans 13:1). Paul goes on to say that a ruler is God's servant to do good for the citizens. (Romans 13:4). I understand this to mean that a public servant is a minister just as much as any of the clergy.

The legislators' political heritage is a product of the Founders among whom were those who signed the Declaration of Independence and the Constitution.

I am so grateful, O God, that almost all of the Founders were Christian believers. I am also thankful that so many of the Founders expressed the view that the Constitution reflects the principles found in the Holy Bible, and that in their speeches and writings they quoted scripture more than any other source.

We are so fortunate to have such a splendid spiritual and political heritage. Although having been amended several times, our Constitution has survived longer than most, if not all, constitutions in a republic. France, whose revolution occurred in the same period as ours, has had fifteen constitutions. Help us not to forget the Founders' reliance on You and Your Word for the principles found in our nation's Constitution.

I pray in the Name of Christ,

AMEN

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **HB 2491, HB 2609, HB 2648, HB 2703, HB 2883.**
Ways and Means: **HB 2688.**

CHANGE OF REFERENCE

The President withdrew **SB 305** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Federal and State Affairs.

MESSAGE FROM THE GOVERNOR

SB 479 approved on April 5, 2004.

Sub SB 380, SB 418, SB 446, SB 447, SB 448, SB 449 approved on April 8, 2004.
House Sub for SB 136; SB 312, SB 373, SB 399, SB 400, SB 425, SB 426, SB 523, SB 528, SB 529, SB 534, SB 557 approved April 12, 2004.
SB 66; H Sub for Sub SB 153; SB 350, SB 382, SB 404, SB 431 approved April 14, 2004.
SB 384 approved April 15, 2004.
H Sub for SB 9; H Sub for SB 45; H Sub for SB 166; SB 197, SB 256, SB 297, SB 299, SB 309, SB 328, SB 334; Sub SB 335; SB 343, SB 353, SB 363, SB 364, SB 396, SB 422, SB 440, SB 461, SB 501, SB 524 approved April 16, 2004.

April 8, 2004

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Order No. 2004-03 for your information.

KATHLEEN SEBELIUS
Governor

The President announced Executive Order No. 2004-03, directing the Secretary of Revenue to establish a State of Kansas tax clearance process to ensure that each individual who is hired by a state agency under the jurisdiction of the Governor and who is not already employed by the State of Kansas is current and compliant with all Kansas tax laws administered by the Department of Revenue. The Secretary of Revenue shall issue such policies and procedures as are necessary to ensure that the tax clearance process meet their objectives.

April 26, 2004

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

KATHLEEN SEBELIUS
Governor

Member, Kansas, Inc., Stanley R. Ahlerich, pursuant to the authority vested in me by K.S.A. 74-8001, effective upon the date of confirmation by the Senate, to serve a term of 4 years.

Member, Kansas, Inc., Wilbur (Gene) E. Argo, pursuant to the authority vested in me by K.S.A. 74-8001, effective upon the date of confirmation by the Senate, to serve a term of 4 years.

Member, Kansas, Inc., Patricia L. Bossert, pursuant to the authority vested in me by K.S.A. 74-8001, effective upon the date of confirmation by the Senate, to serve a term of 4 years.

Member, Kansas, Inc., Donna A. Johnson, pursuant to the authority vested in me by K.S.A. 74-8001, effective upon the date of confirmation by the Senate, to fulfill an unexpired term.

Member, Kansas, Inc., Wilbert J. Leiker, pursuant to the authority vested in me by K.S.A. 74-8001, effective upon the date of confirmation by the Senate, to fulfill an unexpired term.

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF REVENUE
 Division of Property Valuation
 March 5, 2004

As required by K.S.A. 79-1490, Mark S. Beck, Director, Division of Property Valuation, submitted the 2003 Preliminary Real Estate Appraisal/Sales Ratio Study. The publication, along with additional ratio study data, is available in pdf format on the Kansas Department of Revenue Website at <http://www.ksrevenue.org/pvdratiostats.htm>

DEPARTMENT OF REVENUE
 Office of the Secretary
 April 1, 2004

Joan Wagon, Secretary, Department of Revenue, as required by K.S.A. 74-50,118(c),

submitted an annual report estimating the state tax expenditures from income tax credits claimed and sales tax exemptions allowed under the Kansas Enterprise Zone Act.

DEPARTMENT OF COMMERCE

April 1, 2004

As required by K.S.A. 74-50,118(b), John Moore, Lt. Governor/Secretary Department of Commerce, submitted the Annual Report on the Kansas Enterprise Zone Program.

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

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: **H Sub for SB 376**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **HOUSE Substitute for SB 376**, 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 11, in line 1, after the semicolon, by inserting "or"; in line 2, after the semicolon, by inserting "or";

On page 12, in line 31, by striking "entertainment or"; also in line 31, by striking "recreation."; in line 38, by striking "\$25" and inserting "\$15";

On page 13, in line 23, by striking all following the period; by striking all in lines 24 through 27 and inserting:

"(1) For the period commencing on July 1, 2000, and ending the day preceding the effective date of this act, registered lobbyists shall have maintained any vendor receipts for food and beverages provided as hospitality. Records supporting the provision of food and beverages as hospitality shall be deemed to be sufficient if such records show:

- (A) The date when such food and beverages were provided; and
- (B) the place at which such food and beverages were provided; and
- (C) the total cost of the food and beverages provided; and
- (D) a list of the individuals to whom such food and beverages were provided.

(2) On and after the effective date of this act, any vendor receipt for food and beverages provided as hospitality shall be deemed to be sufficient as a record, if such receipt shows:

- (A) The date when such food and beverages were provided;
- (B) the place at which such food and beverages were provided; and
- (C) the total cost of the food and beverages provided.

An itemization showing the items consumed shall be required on such receipt unless the vendor's policy is not to provide an itemized receipt to any of such vendor's customers. It shall be noted in the lobbyist's record if the vendor's policy is to not provide an itemized receipt.

In addition, a list of the individuals to whom such food and beverages were provided shall be maintained.";

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

DON MYERS
TED POWERS
R.J. WILSON
Conferees on part of House

BARBARA P. ALLEN
MARK A. BUHLER
DONALD BETTS, JR.
Conferees on part of Senate

Senator Allen moved the Senate not adopt the Conference Committee Report on **H Sub for SB 376** and a new conference committee be appointed.

The President appointed Senators Allen, Buhler and Betts as second conferees on the part of the Senate.

CHANGE OF CONFERENCE

The President announced the appointment of Senators Vratil, Schmidt and Goodwin as members of the Conference Committee on **HCR 5005** to replace Senators Allen, O'Connor and Betts.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1851—

A RESOLUTION congratulating and commending Kansas students receiving perfect ACT scores.

WHEREAS, The ACT test is widely used as a qualifier for admission to college. Last year over 2.1 million secondary school students took the test and 239 students received perfect scores of 36. During the current academic year, over one million high school students have taken the ACT test; 146 students nationally received a perfect score of 36 with 10 of these students being from Kansas. Through several years of testing, the percent of those scoring a perfect 36 has remained at $\frac{1}{100}$ of a percent. These test results show that these students have studied hard in high school and are ready for the academic challenges of college; and

WHEREAS, The ACT is a curriculum-based test. The primary subjects tested are English, mathematics, reading and science. The content for the test is based on results from the National Curriculum Survey, the only survey of its kind. Educators provide direction on what students are taught in high school and the skills and knowledge they need to do college-level work. Prior results have shown that students who do well on the ACT test perform well in college, and these students are likely to be accepted at highly selective institutions; and

WHEREAS, The 10 Kansas students with perfect 36 ACT scores are:

Turner R. Batty, a 12th grader at Blue Valley North High School and the son of Larry and Kimberly Batty. He plans to major in economics. He has been on the state champion mathematics team, participated in music competition in percussion and tutored elementary students in chess;

Amy Chang, an 11th grader at Blue Valley North High School and the daughter of Nae-Sheng and Li-Wen Chen Chang. She plans to major in business and law. She is a member of the National Honor Society, was a member of the state champion debate team and has qualified for national competition in extemporaneous speaking;

Robert G. Hall, an 11th grader at Olathe East High School and the son of Larry and Shirley Hall. He plans to major in mechanical or aerospace engineering. He has been on the basketball team, served as junior class treasurer and is a member of the National Honor Society;

Kyle Heer, a 12th grader at Olathe East High School and the son of Kirk and Donna Heer. He plans to attend the University of Tulsa majoring in physics or engineering physics. He has been a member of the school band, church handbell choir and church youth group;

Feifei B. Jiang, an 11th grader at Pembroke Hill School and the daughter of David and Julie Jiang. She is a member of the mathematics team, the Science Olympiad and plays the violin;

John P. Larson, a 12th grader at Canton-Galva High School and the son of Phil and Rose Larson. He plans to attend Notre Dame University majoring in engineering. He has been a member of the school's football and track teams, is a member of 4-H and the National Honor Society;

Sara C. Maatta, a 10th grader at Manhattan High School West and the daughter of Eric and Meliz Maatta. She is interested in NASA and teaching. She participates in gymnastics and diving and plays piano;

Cassandra A. Mitchell, an 11th grader at Salina High School South and the daughter of Mark and Kathi Mitchell. She is interested in engineering, possibly biomedical engineering and is involved in varsity tennis, accompanies her church choir and is coeditor of the school newspaper;

Brock T. Phillips, an 11th grader at Wichita High School East and the son of Christopher and Paula Phillips. He is interested in the natural sciences and mathematics. He participates in track and cross country, has been a member of the student council and is a member of the National Honor Society;

Thornton W. Thompson, an 11th grader at Shawnee Mission West High School and the son of Victoria Thompson. He plans to attend Kansas University or Washington University and major in mathematics or science. He plays cello in the high school orchestra and in the Youth Symphony of Kansas City: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend these outstanding students, their parents and schools for the spectacular results these students have achieved on the annual ACT test; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to each of the students (at their high schools using the Department of Education directory for mailing addresses).

On emergency motion of Senator Emler **SR 1851** was adopted unanimously.

Members of the Senate welcomed and congratulated Sara Maatta, Robert Hall, Cassandra Mitchell, Brock Phillips, Thornton Thompson, John Larson and Kyle Heer, Kansas students who were honored in the Senate for receiving perfect scores on their ACT tests. Accompanying the students were Bill Seidl, Superintendent, and Eric Steele, principal of Canton-Galva High School.

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

SENATE RESOLUTION No. 1852—

A RESOLUTION congratulating and commending the St. Thomas Aquinas High School girls basketball team and Coach Rick Hetzel for winning the 2004 Class 6A State Basketball Championship.

WHEREAS, The St. Thomas Aquinas High School girls basketball team won the 2004 Kansas State High School Activities Association Class 6A State Basketball Championship with a thrilling 49-35 victory over Topeka Washburn Rural High School in the state championship game at Emporia on March 13; and

WHEREAS, The St. Thomas Aquinas High School "Saints" basketball team finished the season with a record of 24 wins and 1 loss; and

WHEREAS, The team has been to 10 consecutive state tournaments and five consecutive championship games, its last championship being in 2001. This year the team won all of its East Kansas League games with an average margin of victory of more than 20 points and all of its tournament games by 10 points; and

WHEREAS, Carolyn McCullough was named as the Gatorade Player of the Year and was nominated for the DiRenna Award as one of the top five players in the metropolitan area; she set a state tournament record for the most free throws made in a game;

WHEREAS, Coach Rick Hetzel was named as the Kansas City Area Girls Co-Coach of the Year and the Sun country Coach of the Year; and

WHEREAS, The members of this outstanding basketball team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team was due to its excellent teamwork, strong competitive spirit and determination to win. The team also had the enthusiastic support of the school's administrators, the faculty, the students, the players' parents and many area citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the St. Thomas Aquinas High School girls basketball team and Coach Hetzel be congratulated and commended for winning the 2004 Kansas State High School Activities Association Class 6A State Basketball Championship; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to William P. Ford, Principal, St. Thomas Aquinas High School, 11411 Pflumm Road, Overland Park, KS 66215.

On emergency motion of Senator Brownlee **SR 1852** was adopted unanimously.

Senator Brownlee and members of the Senate congratulated team members and their coaches for winning the Class 6A State Basketball Championship.

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

SENATE RESOLUTION No. 1853—

A RESOLUTION congratulating and commending Kendra Frazier.

WHEREAS, Kendra Frazier, an eighth grader at Altamont Grade School, is the 2004 Kansas state spelling champion. She outspelled 98 of the state's best spellers during a four-hour spelling bee at Washburn University's White Concert Hall on March 27; and

WHEREAS, The state spelling bee is sponsored by the Topeka Capital-Journal, St. Francis Health Center and Washburn University. This is the 51st year for the event. Contests are held in each county with the county winners going to the state spelling bee. This year 101 counties participated with 99 county champions appearing at the state meet; and

WHEREAS, To become the state champion Kendra correctly spelled catamaran, congeal, coniferous, dolorous, hypercritical, noisome and callow. She competed for several rounds with Erin Keeley of Manhattan before Erin misspelled noisome. Kendra will represent Kansas in the National Spelling Bee in Washington, D.C. on June 1 to 3; and

WHEREAS, Kendra comes from a family of champion spellers. Her mother, Linda, competed in the 1967 All-Kansas Spelling Bee; an older sister, Christa, competed at the state level three times, finishing 14th, sixth and second; and another sister, Angela, went to the state event four times finishing second twice. Kendra, the youngest in the family, said, "I knew this was the last year for anyone in my family. I did it for my sisters"; and

WHEREAS, Kendra is the daughter of John and Linda Frazier: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Kendra Frazier for being the 2004 Kansas spelling champion and wish her great success at the National Spelling Bee; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Kendra Frazier, P.O. Box 324, Altamont, Ks 67330.

On emergency motion of Senator Umbarger **SR 1853** was adopted unanimously.

Senator Umbarger introduced Kendra and her parents John and Linda Frazier.

Senators Goodwin, Barone, Betts, Corbin, Downey, Gilstrap, Haley, Helgeson, Hensley, Lee, Oleen and Steineger introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1854—

A RESOLUTION in memory of Joe Ellison Warren.

WHEREAS, Joe Ellison Warren of Maple City died at age 91 on December 23, 2003. His grandson, The Reverend Joe Warren, officiated at his funeral service; and

WHEREAS, Mr. Warren served continuously in the Kansas Senate from 1957 to 1988. During this long period of service he was the assistant minority leader and caucus chairman for his party and served on the committees on ways and means, education and agriculture; and

WHEREAS, He was born September 17, 1912, in Silverdale, to James and Phoebe (Harkelroad) Warren. He was reared and educated in Silverdale and Arkansas City, graduating from Arkansas City High School in 1931. He married Pauline Goff on September 4, 1932. Initially they lived in Silverdale, but they moved to a farm near Maple City in the mid 1930's, which farm continues to be the family home; and

WHEREAS, Mr. Warren was a longtime member of the First Presbyterian Church of Arkansas City, the Rotary Club, the Kansas Livestock Association and the Kansas Wheat Growers Association; and

WHEREAS, Survivors include his wife, Pauline, of the home; one son, Jim; five grandchildren, 27 great-grandchildren and numerous great-great-grandchildren: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we extend our deepest sympathy to the family of Joe Warren and thank him for over 30 years of dedicated service to the State of Kansas; and

Be it further resolved: That the Secretary of the Senate provide two enrolled copies of this resolution to Mrs. Joe Warren, 32954 181st Road, Arkansas City, KS 67102.

On emergency motion of Senator Goodwin **SR 1854** was adopted unanimously.

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

SENATE RESOLUTION No. 1855—

A RESOLUTION congratulating and commending Tony Stewart.

WHEREAS, Tony Stewart has raced three times at Kansas Speedway; and

WHEREAS, Tony Stewart has won the Indy Racing League championship in 1997 and the NASCAR championship in 2002; and

WHEREAS, Tony Stewart has finished among NASCAR's Top 10 every year of his career; and

WHEREAS, Tony Stewart was named NASCAR's Rookie of the Year in 1999; and

WHEREAS, Tony Stewart has two poles at Indianapolis—the 1996 Indianapolis 500 and the 2002 Brickyard 400; and

WHEREAS, Tony Stewart has won the USAC's Triple Crown, one of only four drivers to do so, and the first to do it all in just one season; and

WHEREAS, Tony Stewart has won a total of nine driving championships since he began racing competitively in 1979 at the tender age of eight; and

WHEREAS, Tony Stewart's World of Outlaws team driver Danny Lasoski won the series' 2001 championship; and

WHEREAS, Tony Stewart's accomplishments aren't just on the track but they're also on a charitable level. Tony Stewart recently formed the Tony Stewart Foundation and donated \$1 million to Victory Junction Gang Camp; and

WHEREAS, Tony Stewart is a Midwestern boy who has an enormous fan following in Kansas; Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Tony Stewart for his professional and charitable accomplishments; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Tony Stewart, c/o Joe Gibbs Racing, 13415 Reese Blvd West, Huntersville, NC 28078 and Jeff Boerger, President, Kansas Speedway, 400 Speedway Boulevard, Kansas City, KS 66111.

On emergency motion of Senator Gilstrap **SR 1855** was adopted unanimously.

NASCAR driver Tony Stewart was welcomed and given a standing ovation by the members of the Senate. Mr. Stewart addressed the Senate and presented President Kerr with a plaque, which will be auctioned off at a fund-raiser for Special Olympics. Accompanying Tony were Mike Arning, Public Relations; Jeff Boerger, President of the Kansas Speedway; Stann Tate, Kansas Speedway Public Relations; Sammy Lukaskiewicz, Kansas Speedway Public Relations; Matt Roberts, Freebird; Iabil Garza, Freebird; Tim Umphrey, Kansas Speedway Photo; Josh Umphrey, Kansas Speedway Photo and Eddie Gervais, Business Manager.

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **HB 2471**, as amended by House Committee of the Whole, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL NO. 2471," as follows:

"SENATE Substitute for HOUSE BILL NO. 2471

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2004, June 30, 2005, June 30, 2006, and June 30, 2007; authorizing certain transfers and fees, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the foregoing; repealing section 66 of 2004 House Bill No. 2675."

and the substitute bill be passed.

REPORT ON ENGROSSED BILLS

SB 501 reported correctly engrossed on April 5, 2004.

SB 299, SB 309, SB 364, SB 384, SB 461, reported correctly re-engrossed April 5, 2004.

H Sub for SB 9, H Sub for SB 45, H Sub for SB 166; Sub SB 335, SB 363, SB 440 reported correctly engrossed April 6, 2004

SB 524 reported correctly re-engrossed April 6, 2004.

SB 334 correctly re-engrossed April 7, 2004.

REPORT ON ENROLLED BILLS

SB 66; H Sub for Sub SB 153; SB 350, SB 382, SB 404, SB 431, reported correctly enrolled, properly signed and presented to the Governor on April 6, 2004.

SR 1845, SR 1846, SR 1847, SR 1848, SR 1849, SR 1850 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 6, 2004.

H Sub for SB 9; H Sub for SB 45, H Sub for SB 166; SB 197, SB 256, SB 297, SB 299, SB 309, SB 328, SB 334; H Sub for SB 335; SB 343, SB 353, SB 363, SB 364, SB 384, SB 396, SB 422, SB 440, SB 461, SB 501, SB 524 reported correctly enrolled, properly signed and presented to the Governor on April 9, 2004.

MESSAGE FROM THE HOUSE

The House announces the appointment of Representatives Mason, D. Williams and Rehorn to replace Representatives Myers, Powers and Wilson as conferees on **HCR 5005**.

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

AFTERNOON SESSION

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

REPORTS OF STANDING COMMITTEES

Committee on Federal and State Affairs begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Kansas Lottery Commission: K.S.A. 74-8709

Michael Gayoso, Jr., term expires March 15, 2007

Kansas Lottery Commission, Chairperson: K.S.A. 74-8709

Carole O. Gates, term expires March 15, 2008

On motion of Senator Oleen, the Senate recessed until 4:30 p.m.

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

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 305**, as amended by Senate Committee of the Whole, be further amended on page 12, in line 4, by striking all following the period; by striking all in lines 5, 6 and 7;

In the title, in line 12, by striking "and"; in line 13, by striking "taxation"; also in line 13, by striking all following the semicolon; in line 14, by striking all preceding "amending"; and the bill be passed as amended.

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **SB 29**.

The House adopts the conference committee report on **SB 304**.

The House adopts the conference committee report on **HB 2037**.

The House adopts the conference committee report on **HB 2201**.

The House adopts the conference committee report on **HB 2545**.

The House adopts the conference committee report on **HB 2557**.

The House adopts the conference committee report on **HB 2563**.

The House adopts the conference committee report on **HB 2606**.

The House adopts the conference committee report on **HB 2617**.

The House adopts the conference committee report on **HB 2653**.

The House adopts the conference committee report on **HB 2745**.

The House adopts the conference committee report on **HB 2805**.

The House not adopts the conference committee report on **HB 2067**, requests a conference and appoints Representatives Neufeld, Shultz and Shriver as second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **HB 2658** and has appointed Representatives Jim Morrison, DeCastro and Kirk as second conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 376** and has appointed Representatives Myers, Powers and Wilson as second conferees on the part of the House.

The House announces the appointment of Representative Dillmore to replace Representative B. Sharp as a conferee on **HB 2549**.

The House announces the appointment of Representative Thull to replace Representative Toelkes as a conferee on **HB 2624**.

ORIGINAL MOTION

Senator Donovan moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 304**; **HB 2067**, **HB 2347**, **HB 2549**, **HB 2597**, **HB 2695**, **HB 2712**, **HB 2880**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 29**, submits the following report:

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

On page 108, following line 17, by inserting the following:

"Sec. 93. K.S.A. 2003 Supp. 17-2036 is hereby amended to read as follows: 17-2036.

(a) Every business trust shall make an annual report in writing to the secretary of state, showing its financial condition at the close of business on the last day of its tax period under the Kansas income tax act next preceding the date of filing, but if a business trust's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms provided by the secretary of state and shall be filed at the time prescribed by law for filing the business trust's annual Kansas income tax return, except that if any such business trust shall receive an extension of time for filing its annual income tax return from the internal revenue service or pursuant to subsection (c) of K.S.A. 79-3221, and amendments thereto, the time for filing the report hereunder shall be extended, correspondingly, upon filing with the secretary of state a copy of the extension granted by the internal revenue service or the director of taxation. The report shall contain the following:

~~(1)~~ (1) Executed copies of all amendments to the instrument by which the business trust was created, or to prior amendments thereto, which have been adopted and have not theretofore been filed under K.S.A. 17-2033, and amendments thereto, and accompanied by the fee prescribed therein for each such amendment; and

~~(2)~~ (2) a verified list of the names and addresses of its trustees as of the end of its tax period; and

~~(c)~~ (c) a balance sheet as of the end of its tax period, certified by the trustee, fairly and truly reflecting its assets and liabilities and specifically setting out its corpus, and, in the case of a foreign business trust, fairly and truly reflecting an allocation of its moneys and

~~other assets as between those located, used, or to be used in this state and those located, used or to be used elsewhere.~~

(b) (1) At the time of filing its annual report, the business trust shall pay to the secretary of state an annual franchise tax in an amount equal to \$2 for each \$1,000 of its corpus ~~as shown by its balance sheet~~, or, in the case of a foreign business trust, in an amount equal to \$2 for each \$1,000 of that portion of its corpus which is located in or which it uses or intends to use in this state ~~as shown by its balance sheet~~, except that in any case no such tax shall be less than \$40 nor more than \$5,000.

(2) The failure of any domestic or foreign business trust to file its annual report and pay its annual franchise tax within 90 days from the date on which they are due, as aforesaid, shall work a forfeiture of its authority to transact business in this state and all of the remedies, procedures, and penalties specified in K.S.A. 17-7509 and 17-7510, and amendments thereto, with respect to a corporation which fails to file its annual report or pay its annual franchise tax within 90 days after they are due, shall be applicable to such business trust.

(c) *When any business trust that is required to file an annual report with the secretary of state, applies for an extension of time for filing its annual income tax return with the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, and subsection (d). All copies of such applications shall be preserved for one year and until the secretary of state orders that the copies are to be destroyed.*

(d) *A copy of such application shall be open to inspection by or disclosure to any person designated by resolution of the trustees of the business trust.*

Sec. 94. K.S.A. 2003 Supp. 17-7678 is hereby amended to read as follows: 17-7678. (a) ~~The original signed copy, together with a duplicate copy which may be either a signed or conformed copy,~~ of articles of organization or any certificate to be filed pursuant to this act, shall be filed with the secretary of state. A person who executes a certificate, statement or articles as an agent or fiduciary shall not be required to exhibit evidence of the person's authority as a prerequisite to filing. Any signature on any articles or certificate authorized to be filed with the secretary of state under any provision of this act may be a facsimile, a conformed signature or an electronically transmitted signature. Unless the secretary of state finds that any filing does not conform to law, upon receipt of all filing fees required by law, the secretary of state shall:

(1) Certify that such document has been filed in the secretary of state's office by endorsing upon the original filing the word "filed" and the date and hour of the filing; in the absence of actual fraud, this endorsement is conclusive of the date and time of its filing;

(2) ~~file and index record~~ the endorsed document *in an electronic medium*; and

(3) ~~return the duplicate copy, similarly original document, certified as a true copy of the recorded document,~~ to the person who filed it or such person's representative.

(b) The articles of organization shall be amended as provided in a certificate of amendment ~~for judicial decree of amendment~~ upon the filing of the certificate of amendment ~~for judicial decree of amendment~~ with the secretary of state or upon the future effective date specified in the certificate of amendment. An inaccuracy in the articles of organization may be corrected by filing a certificate of correction with the secretary of state as provided in K.S.A. 2003 Supp. 17-7683, and amendments thereto. The articles of organization are canceled upon the issuance of a certificate of cancellation ~~for certificate of merger or consolidation where the limited liability company is not the surviving or resulting entity~~ by the secretary of state.

(c) The fee required by this act shall be paid at the time of the filing of any articles of organization or any certificate to be filed pursuant to this act.

(d) The fee required by this act shall be paid for a certified copy of any paper on file pursuant to this act and the fee fixed pursuant to this act shall be paid for each page copied.

(e) The secretary of state may prescribe a telefacsimile communication fee in addition to any filing fees to cover the cost of such services. This fee must be paid prior to acceptance

of a telefacsimile communication and shall be deposited into the information and copy service fee fund.

(f) Upon filing the articles of organization of a limited liability company organized to exercise powers of a professional association or professional corporation, the limited liability company shall file with the secretary of state a certificate by the licensing body, as defined in K.S.A. 74-146, and amendments thereto, of the profession involved that each of the members is duly licensed to practice that profession, and that the proposed company name has been approved.

Sec. 95. K.S.A. 2003 Supp. 17-76,121 is hereby amended to read as follows: 17-76,121. Before doing business in the state of Kansas, a foreign limited liability company shall register with the secretary of state. In order to register, a foreign limited liability company shall submit to the secretary of state, together with payment of the fee required by this act, an original copy executed by a member or manager, together with a duplicate copy, of an application for registration as a foreign limited liability company, setting forth:

- (a) The name of the foreign limited liability company;
- (b) the state or other jurisdiction or country where organized, the date of its organization and a statement issued by an appropriate authority in that jurisdiction *or by a third-party agent authorized by the secretary of state* that the foreign limited liability company exists in good standing under the laws of the jurisdiction of its organization;
- (c) the nature of the business or purposes to be conducted or promoted in the state of Kansas;
- (d) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by this act;
- (e) an irrevocable written consent of the foreign limited liability company that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the secretary of state as provided for in K.S.A. 60-304, and amendments thereto, and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the general partners of the foreign limited liability company;
- (f) the name and business, residence or mailing address of each of the members or, if managed by managers, the name and business, residence or mailing address of each of the managers; and
- (g) the date on which the foreign limited liability company first did, or intends to do, business in the state of Kansas.

A person shall not be deemed to be doing business in the state of Kansas solely by reason of being a member or manager of a domestic limited liability company or a foreign limited liability company.

Sec. 96. K.S.A. 2003 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139. (a) Every limited liability company organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited liability company; and
- (2) a list of the members owning at least 5% of the capital of the company, with the post office address of each.

(b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company also shall apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited liability company.

(c) The annual report required by this section shall be signed by a member of the limited liability company and forwarded to the secretary of state. At the time of filing the report, the limited liability company shall pay to the secretary of state an annual franchise tax in an amount equal to \$2 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship, \$2 for each \$1,000 of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited liability company to the secretary as provided by this subsection shall not be disclosed by the secretary.

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, shall be applicable to the articles of organization of any domestic limited liability company or to the authority of any foreign limited liability company which fails to file its annual report or pay the franchise tax within 90 days of the time prescribed in this section for filing and paying the same. Whenever the articles of organization of a domestic limited liability company or the authority of any foreign limited liability company are forfeited for failure to file an annual report or to pay the required franchise tax, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees and taxes, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

(e) When reinstatement is effective, it relates back to and takes effect as of the effective date of the forfeiture and the company may resume its business as if the forfeiture had never occurred.

(f) No limited liability company shall be required to file its first annual report under this act, or pay any annual franchise tax required to accompany such report, unless such limited liability company has filed its articles of organization or application for authority at least six months prior to the last day of its tax period. If any limited liability company files with the secretary of state a notice of change in its tax period and the next annual report filed by such limited liability company subsequent to such notice is based on a tax period of less than 12 months, the annual tax liability shall be determined by multiplying the annual franchise tax liability for such year by a fraction, the numerator of which is the number of months or any portion thereof covered by the annual report and the denominator of which is 12, except that the tax shall not be less than \$40.

(g) *When any limited liability company that is required to file an annual report with the secretary of state applies for an extension of time for filing its annual income tax return*

with the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns filed shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, or subsection (h). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

(h) A copy of such application shall be open to inspection by or disclosure to any person who was a member of such limited liability company during any part of the period covered by the extension.

Sec. 97. K.S.A. 56-1a156 is hereby amended to read as follows: 56-1a156. (a) The original signed copy, ~~together with a duplicate copy which may be either a signed or conformed copy,~~ of the certificate of limited partnership, any certificates of amendment or cancellation and any judicial decree of amendment or cancellation shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary shall not be required to exhibit evidence of the person's authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law, the secretary of state shall:

(1) Certify that the certificate of limited partnership, certificate of amendment, certificate of cancellation or judicial decree of amendment or cancellation has been filed in the secretary of state's office by endorsing upon the original certificate the word "Filed" and the date and hour of the filing; in the absence of actual fraud this endorsement is conclusive of the date and time of its filing;

(2) ~~file and index~~ record the endorsed certificate in an electronic medium; and

(3) return the ~~duplicate copy, similarly~~ original document certified as a true copy of the recorded document, to the person who filed it or that person's representative.

(b) The certificate of limited partnership shall be amended as provided in a certificate of amendment or decree of amendment upon the filing of the certificate of amendment or judicial decree of amendment in the office of the secretary of state or upon the future effective date specified in the certificate of amendment or judicial decree of amendment. The certificate of limited partnership is canceled upon the filing of a certificate of cancellation or a judicial decree of amendment in the office of the secretary of state, upon the future effective date specified in the certificate of cancellation or a judicial decree or as specified in this act.

(c) The fee required by K.S.A. 56-1a605, *and amendments thereto*, shall be paid at the time of the filing of a certificate of limited partnership, a certificate of amendment or a certificate of cancellation.

(d) The fee required by K.S.A. 56-1a605, *and amendments thereto*, shall be paid for a certified copy of any paper on file pursuant to this act, and the fee fixed pursuant to K.S.A. 56-1a605, *and amendments thereto*, shall be paid for each page copied.

Sec. 98. K.S.A. 56-1a502 is hereby amended to read as follows: 56-1a502. Before doing business in the state of Kansas, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state together with payment of the fee required by K.S.A. 56-1a605 and amendments thereto, an original copy executed by a general partner, together with a duplicate copy, of an application for registration as a foreign limited partnership, setting forth:

(a) The name of the foreign limited partnership;

(b) the state or other jurisdiction or country where organized, the date of its organization and a statement issued by an appropriate authority in that jurisdiction *or by a third-party agent authorized by the secretary of state* that the foreign limited partnership exists in good standing under the laws of the jurisdiction of its organization;

(c) the nature of the business or purposes to be conducted or promoted in the state of Kansas;

(d) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by subsection (b) of K.S.A. 56-1a504 and amendments thereto;

(e) an irrevocable written consent of the foreign limited partnership that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the secretary of state as provided for in K.S.A. 60-304 and amendments thereto and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the general partners of the foreign limited partnership;

(f) the name and business, residence or mailing address of each of the general partners; and

(g) the date on which the foreign limited partnership first did, or intends to do, business in the state of Kansas.

Sec. 99. K.S.A. 2003 Supp. 56-1a606 is hereby amended to read as follows: 56-1a606.

(a) Every limited partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return. If the limited partnership applies for an extension of time for filing its annual income tax return under the internal revenue code or under K.S.A. 79-3221 and amendments thereto, the limited partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221 and amendments thereto. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

(1) The name of the limited partnership; and

(2) a list of the partners owning at least 5% of the capital of the partnership, with the post office address of each.

(c) Every limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and location, listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing the report, the limited partnership shall pay to the secretary of state an annual franchise tax in an amount equal to \$2 for each \$1,000 of the partners' net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited partnership to the secretary as provided by this subsection shall not be disclosed by the secretary.

(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a domestic corporation's articles of incorporation for failure to file an annual report or pay the required franchise tax, shall be applicable to the certificate of partnership of any limited partnership which fails to file its annual report or pay the franchise tax within 90

days of the time prescribed in this section for filing and paying the same. Whenever the certificate of partnership of a limited partnership is forfeited for failure to file an annual report or to pay the required franchise tax, the limited partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees and taxes, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 100. K.S.A. 2003 Supp. 56-1a607 is hereby amended to read as follows: 56-1a607.

(a) Every foreign limited partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return. If the limited partnership applies for an extension of time for filing its annual income tax return under the internal revenue code or under K.S.A. 79-3221 and amendments thereto, the limited partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221 and amendments thereto. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited partnership.

(c) Every foreign limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and ~~location, listed by section, range, township and~~ county of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing the report, the foreign limited partnership shall pay to the secretary of state an annual franchise tax in an amount equal to \$2 for each \$1,000 of the partners' net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited partnership to the secretary as provided by this subsection shall not be disclosed by the secretary.

(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, and the provisions of subsection (b) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a foreign corporation's authority to do business in this state for failure to file an annual report or pay the required franchise tax, shall be applicable to the authority of any foreign limited partnership which fails to file its annual report or pay the franchise tax within 90 days of the time prescribed in this section for filing and paying the same. Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file an annual report or to pay the required franchise tax, the foreign limited partnership's authority to do business in this state may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees and taxes, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

New Sec. 101. (a) Activities of a foreign limited liability company which do not constitute doing business within the meaning of K.S.A. 2003 Supp. 17-76,121, and amendments thereto, include:

- (1) Maintaining, defending or settling an action or proceeding;
 - (2) holding meetings or carrying on any other activity concerning its internal affairs;
 - (3) maintaining bank accounts;
 - (4) maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositories with respect to those securities;
 - (5) selling through independent contractors;
 - (6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;
 - (7) creating or acquiring indebtedness, mortgages or security interests in real or personal property;
 - (8) securing or collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired;
 - (9) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions of like nature; and
 - (10) transacting business in interstate commerce.
- (b) The ownership in this state of income producing real property or tangible personal property, other than property excluded under subsection (a), constitutes doing business in this state.

(c) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation or regulation under any other law of this state.

(d) The provisions of this section shall be part of and supplemental to the Kansas revised limited liability company act.

New Sec. 102. (a) When any limited partnership that is required to file an annual report with the secretary of state, shall apply for an extension of time for filing its annual income tax return with the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, and subsection (b). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed. Nothing in this section shall be deemed to prohibit the secretary of state from issuing any document described in K.S.A. 56-1a605, and amendments thereto, concerning a limited partnership.

(b) A copy of such application shall be open to inspection by or disclosure to any person who was a partner of the limited partnership during any part of the period covered by the extension.

(c) The provisions of this section shall be part of and supplemental to the revised uniform limited partnership act.

New Sec. 103. (a) Activities of a foreign limited partnership which do not constitute doing business within the meaning of K.S.A. 56-1a502, and amendments thereto, include:

- (1) Maintaining, defending or settling an action or proceeding;
- (2) holding meetings or carrying on any other activity concerning its internal affairs;
- (3) maintaining bank accounts;
- (4) maintaining offices or agencies for the transfer, exchange and registration of the limited partnership's own securities or maintaining trustees or depositories with respect to those securities;
- (5) selling through independent contractors;
- (6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(7) creating or acquiring indebtedness, mortgages or security interests in real or personal property;

(8) securing or collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired;

(9) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions of like nature; and

(10) transacting business in interstate commerce.

(b) The ownership in this state of income producing real property or tangible personal property, other than property excluded under subsection (a), constitutes doing business in this state.

(c) This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation or regulation under any other law of this state.

(d) The provisions of this section shall be part of and supplemental to the revised uniform limited partnership act.

New Sec. 104. (a) When any limited liability partnership that is required to file an annual report with the secretary of state, shall apply for an extension of time for filing its annual income tax return from the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, and subsection (b). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

(b) A copy of such application shall be open to inspection by or disclosure to any person who was a partner of the limited liability partnership during any part of the period covered by the extension.

(c) The provisions of this section shall be part of and supplemental to the revised uniform partnership act.

New Sec. 105. (a) The state board of healing arts shall adopt rules and regulations to limit the percentage of ownership when a licensed physician assistant forms a professional corporation pursuant to K.S.A. 17-2706 *et seq.*, and amendments thereto, in combination with other professional services.

(b) This section shall be part of and supplemental to the physician assistant licensure act.

New Sec. 106. (a) The state board of healing arts shall adopt rules and regulations to limit the percentage of ownership when a licensed occupational therapist forms a professional corporation pursuant to K.S.A. 17-2706 *et seq.*, and amendments thereto, in combination with other professional services.

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

Sec. 107. K.S.A. 2003 Supp. 17-2707 is hereby amended to read as follows: 17-2707. As used in this act, unless the context clearly indicates that a different meaning is intended:

(a) "Professional corporation" means a corporation organized under this act.

(b) "Professional service" means the type of personal service rendered by a person duly licensed, *registered or certified* by this state as a member of any of the following professions, each paragraph constituting one type:

- (1) A certified public accountant;
- (2) an architect;
- (3) an attorney-at-law;
- (4) a chiropractor;
- (5) a dentist;
- (6) an engineer;
- (7) an optometrist;
- (8) an osteopathic physician or surgeon;

- (9) a physician, surgeon or doctor of medicine;
- (10) a veterinarian;
- (11) a podiatrist;
- (12) a pharmacist;
- (13) a land surveyor;
- (14) a licensed psychologist;
- (15) a specialist in clinical social work;
- (16) a licensed physical therapist;
- (17) a landscape architect;
- (18) a registered professional nurse;
- (19) a real estate broker or salesperson;
- (20) a clinical professional counselor;
- (21) a geologist;
- (22) a clinical psychotherapist; ~~and~~
- (23) a clinical marriage and family therapist;
- (24) a licensed physician assistant; and
- (25) a licensed occupational therapist.

(c) "Regulating board" means the court, board or state agency which is charged with the licensing, *registering or certifying* and regulation of the practice of the profession which the professional corporation is organized to render.

(d) "Qualified person" means:

- (1) Any natural person licensed, *registered or certified* to practice the same type of profession which any professional corporation is authorized to practice;
- (2) the trustee of a trust which is a qualified trust under subsection (a) of section 401 of the federal internal revenue code, as in effect on January 1, ~~2001~~ 2004, or of a contribution plan which is a qualified employee stock ownership plan under subsection (a) of section 409A of the federal internal revenue code, as in effect on January 1, ~~2001~~ 2004; or
- (3) the trustee of a revocable living trust established by a natural person who is licensed, *registered or certified* to practice the type of profession which any professional corporation is authorized to practice, if the terms of such trust provide that such natural person is the principal beneficiary and sole trustee of such trust and such trust does not continue to hold title to professional corporation stock following such natural person's death for more than a reasonable period of time necessary to dispose of such stock.

Sec. 108. K.S.A. 2003 Supp. 17-2710 is hereby amended to read as follows: 17-2710. A professional corporation may be organized only for the purpose of rendering one type of professional service and service ancillary thereto and shall not engage in any other business, except that a single professional corporation may be organized to and render professional services under any two or more of the types set forth in items (2), (6), (13) and (17) ~~or~~ of subsection (b) of K.S.A. 17-2707, and amendments thereto; under any two or more of the types set forth in items (4), (5), (7), (8), (9), (11), (12), (14), (15), (16) or (18) of subsection (b) of K.S.A. 17-2707, and amendments thereto; or under any two or more of the types set forth in items (8), (9), (18), (24) and (25) of subsection (b) of K.S.A. 17-2707, and amendments thereto, but shall be deemed to have the following purposes, whether or not authorized by its article of incorporation:

(a) To purchase, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

(b) to purchase, receive, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares of other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, insurance or annuities in any form, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof;

(c) to pay pensions and establish pension plans, profit-sharing plans, stock bonus plans, stock option plans and other incentive plans for any or all of its directors, officers and employees;

(d) to do all things necessary or incidental to the practice of the profession which the professional corporation is authorized to practice.”;

And by renumbering sections accordingly;

Also on page 108, in line 26, by striking “and” and inserting a comma; also in line 26, after “17-7514”, by inserting “, 56-1a156 and 56-1a502”; in line 27, after “Supp.”, by inserting “17-2036, 17-2707, 17-2710.”; in line 30, by striking “and” and inserting a comma; also in line 30, after “17-7508”, by inserting “, 17-7678, 17-76,121, 17-76,139, 56-1a606 and 56-1a607”;

On page 1, in the title, in line 25, after “17-7512”, by striking “and” and inserting a comma; also in line 25, after “17-7514”, by inserting “, 56-1a156 and 56-1a502”; also in line 25, after “Supp.”, by inserting “17-2036, 17-2707, 17-2710.”; in line 29, after “17-7507”, by striking “and” and inserting a comma; also in line 29, after “17-7508”, by inserting “, 17-7678, 17-76,121, 17-76,139, 56-1a606 and 56-1a607”;

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

MICHAEL O'NEAL
DOUG PATTERSON
JANICE L. PAULS
Conferees on part of House

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 29**.
On request of Senator Barone **SB 29** was passed over.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 304**, 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 4, by deleting all in lines 10 through 13; in line 40, by striking all after the period; by striking all in line 41; in line 42, by striking all before “School”;

By striking all on pages 6 and 7 and inserting:

“Sec. 4. K.S.A. 2003 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) (1) “Pupil” means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in *paragraph (3) of this subsection*, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least $\frac{3}{5}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least $\frac{3}{5}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and

related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution shall not be counted. *A pupil enrolled in a virtual school in a district but who is not a resident of the state of Kansas shall not be counted.*

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs. The state board shall select not more than 5,500 preschool-aged at-risk pupils to be counted in any school year.

(e) "Enrollment" means: (1) For districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this clause (1), the number of pupils regularly enrolled in the district on September 20; (2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or (3) the number of pupils as determined under K.S.A. 72-6447, and amendments thereto.

(f) "Adjusted enrollment" means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, correlation weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, special education and related services weighting, and transportation weighting to enrollment.

(g) "At-risk pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) "Program weighting" means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

(i) "Low enrollment weighting" means an addend component assigned to enrollment of districts having under 1,725 enrollment on the basis of costs attributable to maintenance

of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having 1,725 or over enrollment.

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities. School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget and budgeted therein the total amount authorized for the school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

(k) "Transportation weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

(l) "Correlation weighting" means an addend component assigned to enrollment of districts having 1,725 or over enrollment on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts having under 1,725 enrollment.

(m) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

(n) "Juvenile detention facility" means: (1) Any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail;

(2) any level VI treatment facility licensed by the Kansas department of health and environment which is a psychiatric residential treatment facility for individuals under the age of 21 which conforms with the regulations of the centers for medicare/medicaid services and the joint commission on accreditation of health care organizations governing such facilities; and

(3) the Forbes Juvenile Attention Facility, the Sappa Valley Youth Ranch of Oberlin, Salvation Army/Koch Center Youth Services, the Clarence M. Kelley Youth Center, the Clarence M. Kelley Transitional Living Center, Trego County Secure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina, St. Francis Center at Salina, King's Achievement Center, and Liberty Juvenile Services and Treatment.

(o) "Special education and related services weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.

(p) "Virtual school" means any kindergarten or grades one through 12 course offered for credit that uses distance-learning technologies which predominantly use internet-based methods to deliver instruction and for which the course content is available on an "anytime, anyplace" basis, but the instruction occurs asynchronously with the teacher and pupil in separate locations, not necessarily located within a local education agency.

New Sec. 5. (a) As used in this section:

(1) "Medication" means a medicine for the treatment of anaphylactic reactions or asthma which is prescribed by: (A) A physician licensed to practice medicine and surgery; (B) an advanced registered nurse practitioner issued a certificate of qualification pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs as provided by K.S.A. 65-1130, and amendments thereto; or (C) a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

(2) "School" means any school property or grounds upon which is located a building or structure used by a school district or an accredited nonpublic school for student instruction

or attendance or extracurricular activities of students enrolled in kindergarten or any of the grades one through 12 or at any school sponsored activity or event.

(b) Each school district shall adopt a policy authorizing the self-administration of medication by students in grades 6 through 12. A school district may adopt a policy authorizing the self-administration of medication for students in kindergarten and grades 1 through 5. A student shall meet all requirements of a policy adopted pursuant to this subsection. Such policy may include, but shall not be limited to:

(1) A requirement of a written statement from the student's health care provider stating the name and purpose of the medication; the prescribed dosage; the time the medication is to be regularly administered, and any additional special circumstances under which the medication is to be administered; and the length of time for which the medication is prescribed;

(2) a requirement that the student provide a written authorization from the student's health care provider and parent or guardian stating that such student has been instructed on self-administration of the medication and is authorized to do so in school; and

(3) a requirement that the student's parent or guardian provide written authorization for the self-administration of medication.

(c) Schools may require annual renewal of parental authorization for the self-administration of medication.

(d) A school district, and its employees and agents, which authorizes the self-administration of medication in compliance with the provisions of this section shall not be liable in any action for any injury resulting from the self-administration of medication.

(e) The school district shall provide written notification to the parent or guardian of a student that the school and its employees and agents are not liable for any injury resulting from the self-administration of medication. The parent or guardian of the student shall sign a statement acknowledging that the school incurs no liability for any injury resulting from the self-administration of medication and agreeing to indemnify and holding the school, and its employees and agents, harmless against any claims relating to the self-administration of such medication.

(f) The provisions of this section shall expire on June 30, 2005.

Sec. 6. K.S.A. 72-6439 and K.S.A. 2003 Supp. 72-6407 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, in line 16, by striking all after the semicolon; in line 21, following “72-6439” by inserting “and K.S.A. 2003 Supp. 72-6407”; also in line 21, by striking “section” and inserting “sections”;

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

KATHE DECKER
CAROL E. BEGGS
BILL REARDON

Conferees on part of House

DWAYNE UMBARGER
JOHN VRATIL
CHRISTINE DOWNEY

Conferees on part of Senate

Senator Umbarger moved the Senate adopt the Conference Committee Report on **SB 304**.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2347**, 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 50, in line 39, by striking "two years" and inserting "one year";
- On page 57, in line 6, by striking "\$25,000" and inserting "\$25,000";
- On page 90, in line 1, by striking "17-1264, 17-1265,";

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

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

MICHAEL O'NEAL
DOUG PATTERSON
JANICE L. PAULS
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2347**. On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgeson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2549**, submits the following report:

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

- On page 3, by striking all in lines 20 through 43;
- By striking all on pages 4 through 8;
- On page 9, by striking all in lines 1 through 29;
- By renumbering the remaining sections accordingly;
- On page 12, after line 43, by inserting the following:
"Sec. 7. K.S.A. 2003 Supp. 38-2001, 40-2258 and 40-4623 are hereby repealed.
- Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.";

In the title, by striking all in line 12; in line 13, by striking all preceding "pertaining"; in line 16, by striking the last comma; in line 17, by striking "40-4623, 58-3935 and 58-3950" and inserting "and 40-4623";

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

RUTH TEICHMAN
JIM BARNETT
CHRIS STEINEGER
Conferees on part of Senate

PATRICIA BARBIERI-LIGHTNER
STANLEY DREHER
NILE DILLMORE
Conferees on part of House

Senator Teichman moved the Senate adopt the Conference Committee Report on **HB 2549**.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2597**, 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 28, by striking "From and after July 1, 2004,";

On page 3, in line 35, by striking "From and after July 1, 2004,";

On page 5, in line 41, by striking "From and after July 1, 2004,";

On page 6, in line 12, by striking "From and after July 1, 2004,";

On page 15, in line 13, by striking "and" and inserting "or";

On page 39, in line 23, by striking all following the period; by striking all in lines 24 through 26; in line 27, by striking all preceding "The" and inserting "The committee shall advertise for proposals. If the committee receives at least three proposals, the committee shall negotiate with the parties submitting proposals and select the party to negotiate with for the purpose of entering into contracts. If less than three parties submit bids, then the committee shall readvertise for proposals. Upon receiving proposals in response to the second advertisement for proposals, the committee shall negotiate with the parties submitting proposals and select from those parties submitting proposals, the party to negotiate with for the purpose of entering into contracts regardless of the number of proposals received.";

On page 41, by striking all in lines 12 through 33; in line 36, by striking "cabinet level"; in line 38, preceding the period, by inserting ", whose purpose is to explore opportunities and encourage employer participation in health plans developed by the committee for low- and modest-wage employees of small employers";

On page 47, following line 3, by inserting:

"Sec. 18. On and after January 1, 2005, K.S.A. 2003 Supp. 40-2404, as amended by section 6 of this act, is hereby further amended to read as follows: 40-2404. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) *Misrepresentations and false advertising of insurance policies.* Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison which:

(a) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;

(b) misrepresents the dividends or share of the surplus to be received on any insurance policy;

(c) makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;

(d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;

(e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;

(f) is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;

(g) is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or

(h) misrepresents any insurance policy as being shares of stock.

(2) *False information and advertising generally.* Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person's insurance business, which is untrue, deceptive or misleading.

(3) *Defamation.* Making, publishing, disseminating or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of any person, and which is calculated to injure such person.

(4) *Boycott, coercion and intimidation.* Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance, or by any act of boycott, coercion or intimidation monopolizing or attempting to monopolize any part of the business of insurance.

(5) *False statements and entries.* (a) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of a person.

(b) Knowingly making any false entry of a material fact in any book, report or statement of any person or knowingly omitting to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such person.

(6) *Stock operations and advisory board contracts.* Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance. Nothing herein shall prohibit the acts permitted by K.S.A. 40-232, and amendments thereto.

(7) *Unfair discrimination.* (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(c) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness. With respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons. Refusal to insure includes denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed in the event that the insured loses such person's eyesight. However, an insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness when such condition existed at the time the policy was issued.

(d) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available for accident and health and life insurance to an applicant who is the proposed insured or charge a different rate for the same coverage or excluding or limiting coverage for losses or denying a claim incurred by an insured as a result of abuse based on the fact that the applicant who is the proposed insured is, has been, or may be the subject of domestic abuse, except as provided in subpart (v). "Abuse" as used in this sub-

section (7)(d) means one or more acts defined in subsection (a) or (b) of K.S.A. 60-3102 and amendments thereto between family members, current or former household members, or current or former intimate partners.

(i) An insurer may not ask an applicant for life or accident and health insurance who is the proposed insured if the individual is, has been or may be the subject of domestic abuse or seeks, has sought or had reason to seek medical or psychological treatment or counseling specifically for abuse, protection from abuse or shelter from abuse.

(ii) Nothing in this section shall be construed to prohibit a person from declining to issue an insurance policy insuring the life of an individual who is, has been or has the potential to be the subject of abuse if the perpetrator of the abuse is the applicant or would be the owner of the insurance policy.

(iii) No insurer that issues a life or accident and health policy to an individual who is, has been or may be the subject of domestic abuse shall be subject to civil or criminal liability for the death or any injuries suffered by that individual as a result of domestic abuse.

(iv) No person shall refuse to insure, refuse to continue to insure, limit the amount, extent or kind of coverage available to an individual or charge a different rate for the same coverage solely because of physical or mental condition, except where the refusal, limitation or rate differential is based on sound actuarial principles.

(v) Nothing in this section shall be construed to prohibit a person from underwriting or rating a risk on the basis of a preexisting physical or mental condition, even if such condition has been caused by abuse, provided that:

(A) The person routinely underwrites or rates such condition in the same manner with respect to an insured or an applicant who is not a victim of abuse;

(B) the fact that an individual is, has been or may be the subject of abuse may not be considered a physical or mental condition; and

(C) such underwriting or rating is not used to evade the intent of this section or any other provision of the Kansas insurance code.

(vi) Any person who underwrites or rates a risk on the basis of preexisting physical or mental condition as set forth in subsection (7)(d)(v), shall treat such underwriting or rating as an adverse underwriting decision pursuant to K.S.A. 40-2,112, and amendments thereto.

(vii) The provisions of subsection (d) shall apply to all policies of life and accident and health insurance issued in this state after the effective date of this act and all existing contracts which are renewed on or after the effective date of this act.

(8) *Rebates.* (a) Except as otherwise expressly provided by law, knowingly permitting, offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon; paying, allowing, giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, selling, purchasing or offering to give, sell or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in subsection (7) or (8)(a) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(i) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance. Any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses; or

(iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are: (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicate a general business practice.

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(d) refusing to pay claims without conducting a reasonable investigation based upon all available information;

(e) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(g) compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(h) attempting to settle a claim for less than the amount to which a reasonable person would have believed that such person was entitled by reference to written or printed advertising material accompanying or made part of an application;

(i) attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(j) making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made;

(k) making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) delaying the investigation or payment of claims by requiring an insured, claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(m) failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(n) failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(10) *Failure to maintain complaint handling procedures.* Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints which it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint" means any written communication primarily expressing a grievance related to the acts and practices set out in this section.

(11) *Misrepresentation in insurance applications.* Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.

(12) *Statutory violations.* Any violation of any of the provisions of K.S.A. 40-216, 40-276a, 40-2,155 or 40-1515 and amendments thereto.

(13) *Disclosure of information relating to adverse underwriting decisions and refund of premiums.* Failing to comply with the provisions of K.S.A. 40-2,112, and amendments thereto, within the time prescribed in such section.

(14) *Rebates and other inducements in title insurance.* (a) No title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to obtaining any title insurance business, any rebate, reduction or abatement of any rate or charge made incident to the issuance of such insurance, any special favor or advantage not generally available to others of the same classification, or any money, thing of value or other consideration or material inducement. The words "charge made incident to the issuance of such insurance" includes, without limitations, escrow, settlement and closing charges.

(b) No insured named in a title insurance policy or contract nor any other person directly or indirectly connected with the transaction involving the issuance of the policy or contract, including, but not limited to, mortgage lender, real estate broker, builder, attorney or any officer, employee, agent representative or solicitor thereof, or any other person may knowingly receive or accept, directly or indirectly, any rebate, reduction or abatement of any charge, or any special favor or advantage or any monetary consideration or inducement referred to in (14)(a).

(c) Nothing in this section shall be construed as prohibiting:

(i) The payment of reasonable fees for services actually rendered to a title insurance agent in connection with a title insurance transaction;

(ii) the payment of an earned commission to a duly appointed title insurance agent for services actually performed in the issuance of the policy of title insurance; or

(iii) the payment of reasonable entertainment and advertising expenses.

(d) Nothing in this section prohibits the division of rates and charges between or among a title insurance company and its agent, or one or more title insurance companies and one or more title insurance agents, if such division of rates and charges does not constitute an unlawful rebate under the provisions of this section and is not in payment of a forwarding fee or a finder's fee.

(e) *As used in paragraphs (e) through (i)(7) of this subpart, unless the context otherwise requires:*

(i) "Associate" means any firm, association, organization, partnership, business trust, corporation or other legal entity organized for profit in which a producer of title business is a director, officer or partner thereof, or owner of a financial interest; the spouse or any relative within the second degree by blood or marriage of a producer of title business who is a natural person; any director, officer or employee of a producer of title business or associate; any legal entity that controls, is controlled by, or is under common control with a producer of title business or associate; and any natural person or legal entity with whom a producer of title business or associate has any agreement, arrangement or understanding or pursues any course of conduct, the purpose or effect of which is to evade the provisions of this section.

(ii) "Financial interest" means any direct or indirect interest, legal or beneficial, where the holder thereof is or will be entitled to 1% or more of the net profits or net worth of the entity in which such interest is held. Notwithstanding the foregoing, an interest of less than 1% or any other type of interest shall constitute a "financial interest" if the primary purpose of the acquisition or retention of that interest is the financial benefit to be obtained as a consequence of that interest from the referral of title business.

(iii) "Person" means any natural person, partnership, association, cooperative, corporation, trust or other legal entity.

(iv) "Producer of title business" or "producer" means any person, including any officer, director or owner of 5% or more of the equity or capital or both of any person, engaged in this state in the trade, business, occupation or profession of:

(A) Buying or selling interests in real property;

(B) making loans secured by interests in real property; or

(C) *acting as broker, agent, representative or attorney for a person who buys or sells any interest in real property or who lends or borrows money with such interest as security.*

(v) *"Refer" means to direct or cause to be directed or to exercise any power or influence over the direction of title insurance business, whether or not the consent or approval of any other person is sought or obtained with respect to the referral.*

~~(f)~~ (f) *No title insurer or title agent may accept any order for, issue a title insurance policy to, or provide services to, an applicant if it knows or has reason to believe that the applicant was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed to the buyer, seller and lender the financial interest of the producer of title business or associate referring the title insurance business.*

~~(g)~~ (g) *No title insurer or title agent may accept an order for title insurance business, issue a title insurance policy, or receive or retain any premium, or charge in connection with any transaction if: (i) The title insurer or title agent knows or has reason to believe that the transaction will constitute controlled business for that title insurer or title agent, and (ii) ~~20%~~ 70% or more of the ~~gross operating revenue~~ closed title orders of that title insurer or title agent during the ~~six~~ 12 full calendar months immediately preceding the month in which the transaction takes place is derived from controlled business. The prohibitions contained in this subparagraph shall not apply to transactions involving real estate located in a county that has a population, as shown by the last preceding decennial census, of 10,000 or less.*

(h) *Within 90 days following the end of each business year, as established by the title insurer or title agent, each title insurer or title agent shall file with the department of insurance and any title insurer with which the title agent maintains an underwriting agreement, a report executed by the title insurer's or title agent's chief executive officer or designee, under penalty of perjury, stating the percent of closed title orders originating from controlled business. The failure of a title insurer or title agent to comply with the requirements of this section, at the discretion of the commissioner, shall be grounds for the suspension or revocation of a license or other disciplinary action, with the commissioner able to mitigate any such disciplinary action if the title insurer or title agent is found to be in substantial compliance with competitive behavior as defined by federal housing and urban development statement of policy 1996-2.*

(i) (1) *No title insurer or title agent may accept any title insurance order or issue a title insurance policy to any person if it knows or has reason to believe that such person was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed in writing to the person so referred the fact that such producer or associate has a financial interest in the title insurer or title agent, the nature of the financial interest and a written estimate of the charge or range of charges generally made by the title insurer or agent for the title services. Such disclosure shall include language stating that the consumer is not obligated to use the title insurer or agent in which the referring producer or associate has a financial interest and shall include the names and telephone numbers of not less than three other title insurers or agents which operate in the county in which the property is located. If fewer than three insurers or agents operate in that county, the disclosure shall include all title insurers or agents operating in that county. Such written disclosure shall be signed by the person so referred and must have occurred prior to any commitment having been made to such title insurer or agent.*

(2) *No producer of title business or associate of such producer shall require, directly or indirectly, as a condition to selling or furnishing any other person any loan or extension thereof, credit, sale, property, contract, lease or service, that such other person shall purchase title insurance of any kind through any title agent or title insurer if such producer has a financial interest in such title agent or title insurer.*

(3) *No title insurer or title agent may accept any title insurance order or issue a title insurance policy to any person if it knows or has reason to believe that the name of the title company was pre-printed in the sales contract, prior to the buyer or seller selecting that title company.*

(4) *Nothing in this subpart (i) shall prohibit any producer of title business or associate of such producer from referring title business to any title insurer or title agent of such producer's or associate's choice, and, if such producer or associate of such producer has any financial interest in the title insurer, from receiving income, profits or dividends produced or realized from such financial interest, so long as:*

(a) *Such financial interest is disclosed to the purchaser of the title insurance in accordance with part (i)(1) through (4) of this subpart;*

(b) *the payment of income, profits or dividends is not in exchange for the referral of business; and*

(c) *the receipt of income, profits or dividends constitutes only a return on the investment of the producer or associate.*

(5) *Any producer of title business or associate of such producer who violates the provisions of paragraphs (i)(2) through (i)(4), or any title insurer or title agent who accepts an order for title insurance knowing that it is in violation of paragraphs (i)(2) through (i)(4), in addition to any other action which may be taken by the commissioner of insurance, shall be subject to a fine by the commissioner in an amount equal to five times the premium for the title insurance and, if licensed pursuant to K.S.A. 58-3034 et seq., and amendments thereto, shall be deemed to have committed a prohibited act pursuant to K.S.A. 58-3602, and amendments thereto, and shall be liable to the purchaser of such title insurance in an amount equal to the premium for the title insurance.*

(6) *Any title insurer or title agent that is a competitor of any title insurer or title agent that, subsequent to the effective date of this act, has violated or is violating the provisions of subpart (i), shall have a cause of action against such title insurer or title agent and, upon establishing the existence of a violation of any such provision, shall be entitled, in addition to any other damages or remedies provided by law, to such equitable or injunctive relief as the court deems proper. In any such action under this subsection, the court may award to the successful party the court costs of the action together with reasonable attorney fees.*

(7) *The commissioner shall also require each title agent to provide core title services as required by the real estate settlement procedures act.*

(8) (j) *The commissioner shall adopt any regulations necessary to carry out the provisions of this act.*

(15) *Disclosure of nonpublic personal information.* (a) *No person shall disclose any nonpublic personal information contrary to the provisions of title V of the Gramm-Leach-Bliley act of 1999 (public law 106-102). The commissioner may adopt rules and regulations necessary to carry out this section. Such rules and regulations shall be consistent with and not more restrictive than the model regulation adopted on September 26, 2000, by the national association of insurance commissioners entitled "Privacy of consumer financial and health information regulation".*

(b) *Any rules and regulations adopted by the commissioner which implement article V of the model regulation adopted on September 26, 2000, by the national association of insurance commissioners entitled "Privacy of consumer financial and health information regulation" shall become effective on and after February 1, 2002.*

(c) *Nothing in this paragraph (15) shall be deemed or construed to authorize the promulgation or adoption of any regulation which preempts, supersedes or is inconsistent with any provision of Kansas law concerning requirements for notification of, or obtaining consent from, a parent, guardian or other legal custodian of a minor relating to any matter pertaining to the health and medical treatment for such minor.;*

Also on page 47, in line 4, following "K.S.A." by inserting "40-241, 40-246b, 40-246f, 40-2,131,"; also in line 4, by striking "and 40-2124" and inserting ", 40-2124 and 40-4503"; in line 6, by striking "40-"; in line 7, by striking all preceding "40-2209"; also in line 7, by striking "40-4503,"; after line 9, by inserting:

"Sec. 21. From and after January 1, 2005, K.S.A. 2003 Supp. 40-2404, as amended by section 6 of this act, and K.S.A. 2003 Supp. 40-2404, as amended by section 1 of 2004 Senate Bill No. 66, are hereby repealed.;"

By renumbering the remaining section accordingly;

In the title, in line 23, before "40-4702" by inserting "40-2404, as amended by section 6 of this act,"; in line 25, before the period, by inserting "and K.S.A. 2003 Supp. 40-2404, as amended by section 1 of 2004 Senate Bill No. 66";

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

RUTH TEICHMAN
 JIM BARNETT
 CHRIS STEINEGER
Conferees on part of Senate

PATRICIA BARBIERI-LIGHTNER
 STANLEY DREHER
 NILE DILLMORE
Conferees on part of House

Senator Teichman moved the Senate adopt the Conference Committee Report on **HB 2597**.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2695**, submits the following report:

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

On page 1, by striking all in lines 27 through 43;

By striking all on pages 2 through 6;

On page 7, by striking all in lines 1 through 28 and inserting:

"Sec. 2. K.S.A. 8-2118, as amended by section 5 of 2004 House Bill No. 2871, is hereby amended to read as follows: 8-2118. (a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.

(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made by mail or in person and may be by personal check. The traffic citation shall not have been complied with if a check is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest, the payment shall be deemed such an appearance, waiver of right to trial and plea of no contest.

(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine which may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense contained in the following uniform fine schedule is for reference only and is not a legal definition.

<i>Description of Offense</i>	<i>Statute</i>	<i>Fine</i>
Refusal to submit to a preliminary breath test	8-1012	\$90
Unsafe speed for prevailing conditions	8-1557	\$60

Exceeding maximum speed limit; or speeding in zone posted by the state department of transportation; or speeding in locally posted zone	8-1558 to 8-1560 8-1560a or 8-1560b	1-10 mph over the limit, \$30 11-20 mph over the limit, \$30 plus \$6 per mph over 10 mph over the limit; 21-30 mph over the limit, \$90 plus \$9 per mph over 20 mph over the limit; 31 and more mph over the limit, \$180 plus \$15 per mph over 30 mph over the limit;
Disobeying traffic control device	8-1507	\$60
Violating traffic control signal	8-1508	\$60
Violating pedestrian control signal	8-1509	\$30
Violating flashing traffic signals	8-1510	\$60
Violating lane-control signal	8-1511	\$60
Unauthorized sign, signal, marking or device	8-1512	\$30
Driving on left side of roadway	8-1514	\$60
Failure to keep right to pass oncoming vehicle	8-1515	\$60
Improper passing; increasing speed when passed	8-1516	\$60
Improper passing on right	8-1517	\$60
Passing on left with insufficient clearance	8-1518	\$60
Driving on left side where curve, grade, intersection railroad crossing, or obstructed view	8-1519	\$60
Driving on left in no-passing zone	8-1520	\$60
Unlawful passing of stopped emergency vehicle	8-1520a	\$60
Driving wrong direction on one-way road	8-1521	\$60
Improper driving on laned roadway	8-1522	\$60
Following too close	8-1523	\$60
Improper crossover on divided highway	8-1524	\$30
Failure to yield right-of-way at uncontrolled intersection	8-1526	\$60
Failure to yield to approaching vehicle when turning left	8-1527	\$60
Failure to yield at stop or yield sign	8-1528	\$60
Failure to yield from private road or driveway	8-1529	\$60
Failure to yield to emergency vehicle	8-1530	\$180
Failure to yield to pedestrian or vehicle working on roadway	8-1531	\$30
Failure to comply with restrictions in road construction zone	8-1531a	\$30
Disobeying pedestrian traffic control device	8-1532	\$30

Failure to yield to pedestrian in crosswalk; pedestrian suddenly entering roadway; passing vehicle stopped for pedestrian at crosswalk	8-1533	\$60
Improper pedestrian crossing	8-1534	\$30
Failure to exercise due care in regard to pedestrian	8-1535	\$30
Improper pedestrian movement in crosswalk	8-1536	\$30
Improper use of roadway by pedestrian	8-1537	\$30
Soliciting ride or business on roadway	8-1538	\$30
Driving through safety zone	8-1539	\$30
Failure to yield to pedestrian on sidewalk	8-1540	\$30
Failure of pedestrian to yield to emergency vehicle	8-1541	\$30
Failure to yield to blind pedestrian	8-1542	\$30
Pedestrian disobeying bridge or railroad signal	8-1544	\$30
Improper turn or approach	8-1545	\$60
Improper "U" turn	8-1546	\$60
Unsafe starting of stopped vehicle	8-1547	\$30
Unsafe turning or stopping, failure to give proper signal; using turn signal unlawfully	8-1548	\$60
Improper method of giving notice of intention to turn	8-1549	\$30
Improper hand signal	8-1550	\$30
Failure to stop or obey railroad crossing signal	8-1551	\$180
Failure to stop at railroad crossing stop sign	8-1552	\$120
Certain hazardous vehicles failure to stop at railroad crossing	8-1553	\$180
Improper moving of heavy equipment at railroad crossing	8-1554	\$60
Vehicle emerging from alley, private roadway, building or driveway	8-1555	\$60
Improper passing of school bus; improper use of school bus signals	8-1556	\$300
Improper passing of church or day-care bus; improper use of signals	8-1556a	\$180
Impeding normal traffic by slow speed	8-1561	\$30
Speeding on motor-driven cycle	8-1562	\$60
Speeding in certain vehicles or on posted bridge	8-1563	\$30
Improper stopping, standing or parking on roadway	8-1569	\$30
Parking, standing or stopping in prohibited area	8-1571	\$30
Improper parking	8-1572	\$30
Unattended vehicle	8-1573	\$30
Improper backing	8-1574	\$30
Driving on sidewalk	8-1575	\$30
Driving with view or driving mechanism obstructed	8-1576	\$30

Unsafe opening of vehicle door	8-1577	\$30
Riding in house trailer	8-1578	\$30
Improper driving in defiles, canyons, or on grades	8-1579	\$30
Coasting	8-1580	\$30
Following fire apparatus too closely	8-1581	\$60
Driving over fire hose	8-1582	\$30
Putting glass, etc., on highway	8-1583	\$90
Driving into intersection, crosswalk, or crossing without sufficient space on other side	8-1584	\$30
Improper operation of snowmobile on highway	8-1585	\$30
Parental responsibility of child riding bicycle	8-1586	\$30
Not riding on bicycle seat; too many persons on bicycle	8-1588	\$30
Clinging to other vehicle	8-1589	\$30
Improper riding of bicycle on roadway	8-1590	\$30
Carrying articles on bicycle; one hand on handlebars	8-1591	\$30
Improper bicycle lamps, brakes or re- flectors	8-1592	\$30
Improper operation of motorcycle; seats; passengers, bundles	8-1594	\$30
Improper operation of motorcycle on laned roadway	8-1595	\$60
Motorcycle clinging to other vehicle	8-1596	\$30
Improper motorcycle handlebars or passenger equipment	8-1597	\$60
Motorcycle helmet and eye-protection requirements	8-1598	\$30
Unlawful riding on vehicle	8-1578a	\$60
Unlawful operation of all-terrain ve- hicle	8-15,100	\$60
Unlawful operation of low-speed ve- hicle	8-15,101	\$60
Littering	<i>section 1</i>	<i>\$100</i>
Equipment offenses that are not mis- demeanors	8-1701	\$60
Driving without lights when needed	8-1703	\$30
Defective headlamps	8-1705	\$30
Defective tail lamps	8-1706	\$30
Defective reflector	8-1707	\$30
Improper stop lamp or turn signal	8-1708	\$30
Improper lighting equipment on cer- tain vehicles	8-1710	\$30
Improper lamp color on certain vehi- cles	8-1711	\$30
Improper mounting of reflectors and lamps on certain vehicles	8-1712	\$30
Improper visibility of reflectors and lamps on certain vehicles	8-1713	\$30
No lamp or flag on projecting load	8-1715	\$60
Improper lamps on parked vehicle	8-1716	\$30
Improper lights, lamps, reflectors and emblems on farm tractors or slow- moving vehicles	8-1717	\$30

Improper lamps and equipment on implements of husbandry, road machinery or animal-drawn vehicles	8-1718	\$30
Unlawful use of spot, fog, or auxiliary lamp	8-1719	\$30
Improper lamps or lights on emergency vehicle	8-1720	\$30
Improper stop or turn signal	8-1721	\$30
Improper vehicular hazard warning lamp	8-1722	\$30
Unauthorized additional lighting equipment	8-1723	\$30
Improper multiple-beam lights	8-1724	\$30
Failure to dim headlights	8-1725	\$60
Improper single-beam headlights	8-1726	\$30
Improper speed with alternate lighting	8-1727	\$30
Improper number of driving lamps	8-1728	\$30
Unauthorized lights and signals	8-1729	\$30
Improper school bus lighting equipment and warning devices	8-1730	\$30
Unauthorized lights and devices on church or day-care bus	8-1730a	\$30
Improper lights on highway construction or maintenance vehicles	8-1731	\$30
Defective brakes	8-1734	\$30
Defective or improper use of horn or warning device	8-1738	\$30
Defective muffler	8-1739	\$30
Defective mirror	8-1740	\$30
Defective wipers; obstructed windshield or windows	8-1741	\$30
Improper tires	8-1742	\$30
Improper flares or warning devices	8-1744	\$30
Improper use of vehicular hazard warning lamps and devices	8-1745	\$30
Improper air-conditioning equipment	8-1747	\$30
TV screen visible to driver	8-1748	\$30
Improper safety belt or shoulder harness	8-1749	\$30
Improper wide-based single tires	8-1742b	\$60
Improper compression release engine braking system	section 1 of 2004 <i>House Bill No. 2871</i>	\$60
Defective motorcycle headlamp	8-1801	\$30
Defective motorcycle tail lamp	8-1802	\$30
Defective motorcycle reflector	8-1803	\$30
Defective motorcycle stop lamps and turn signals	8-1804	\$30
Defective multiple-beam lighting	8-1805	\$30
Improper road-lighting equipment on motor-driven cycles	8-1806	\$30
Defective motorcycle or motor-driven cycle brakes	8-1807	\$30
Improper performance ability of brakes	8-1808	\$30
Operating motorcycle with disapproved braking system	8-1809	\$30

Defective horn, muffler, mirrors or tires	8-1810	\$30
Unlawful statehouse parking	75-4510a	\$15
Exceeding gross weight of vehicle or combination	8-1909	Pounds Overweight up to 1000.....\$25 1001 to 20003¢ per pound 2001 to 50005¢ per pound 5001 to 75007¢ per pound 7501 and over . 10¢ per pound
Exceeding gross weight on any axle or tandem, triple or quad axles	8-1908	Pounds Overweight up to 1000.....\$25 1001 to 20003¢ per pound 2001 to 50005¢ per pound 5001 to 75007¢ per pound 7501 and over . 10¢ per pound
Failure to obtain proper registration, clearance or to have current certification	66-1324	\$272
Insufficient liability insurance for motor carriers	66-1,128 or 66-1314	\$122
Failure to obtain interstate motor fuel tax authorization	79-34,122	\$122
No authority as private or common carrier	66-1,111	\$122
Improper equipment	66-1,129	\$52
No current driver's daily log	66-1,129	\$52
Invalid or no physical examination card	66-1,129	\$52

(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).

(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.

(f) For a second violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after a prior conviction of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 1½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years, after two prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined two times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 2½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c).”;

On page 9, in line 3, by striking “sixty (60)” and inserting “60”; in line 11, by striking “ten (10)” and inserting “10”;

On page 10, in line 3, after the comma, by inserting “as amended by section 5 of 2004 House Bill No. 2871,”;

On page 1, in the title, in line 12, after the comma, by inserting "as amended by section 5 of 2004 House Bill No. 2871,";

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

LES DONOVAN
LARRY SALMANS
GRETA GOODWIN
Conferees on part of Senate

GARY K. HAYZLETT
JOHN FABER
MARGARET E. LONG
Conferees on part of House

Senator Donovan moved the Senate adopt the Conference Committee Report on **HB 2695**.

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

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Buhler, Buntten, Clark, Donovan, Downey, Emler, Goodwin, Helgerson, Hensley, Jackson, Jordan, Kerr, Morris, Oleen, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Betts, Brownlee, Corbin, Gilstrap, Haley, Huelskamp, Journey, Lee, Lyon, O'Connor, Pugh, Salmans.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2712**, 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 3, in line 1, by striking "subsection"; in line 2, by striking "(b)" and inserting "this section"; in line 6, by striking all following "code" where it appears the first time; by striking all of lines 7 and 8; in line 9, by striking all preceding "as"; in line 12, by striking all following the period; by striking all in lines 13 through 16; in line 20, by striking all following the period; by striking all in lines 21 through 24;

On page 4, by striking all in lines 13 through 17 and inserting the following:

"(g) The construction or reconstruction of a school building, whether funded by bonds or other moneys, in a school district where general obligation bonds were authorized to be issued by a vote of the electors in an election held on or before July 1, 2000, shall be governed by the provisions of this section that were in effect on January 1, 2004.

The provisions of this subsection shall expire on July 1, 2006.";

Also on page 4, preceding line 25, by inserting the following:

"Sec. 4. K.S.A. 80-1540 is hereby amended to read as follows: 80-1540. The township board of any township may create a fire district as provided herein, which by this act. Such fire district may include a part or all of the township and may include all or a part of any other township. ~~Provided,~~ No area may be included which is already in located within an existing fire district or city may be included in a district created pursuant to this section without the consent of that district or city. Upon the filing with a township board of a petition signed by not less than fifty-one percent (51%) of the owners of the area of the land within the limits of the proposed fire district sought to be created, the township board for whom such petition shall be filed, shall within thirty (30) days after such filing, set a date for a public hearing upon said petition and give notice of such hearing by publication for three (3) successive weeks in a newspaper of general circulation in the township. The date of the hearing shall be not more than ten (10) days after the date of the last publication. Upon such hearing or within thirty (30) days thereafter, the township board, or if the proposed fire district includes land in more than one township, then the governing body of such townships meeting and acting together shall each approve or reject the petition as filed or may modify the proposed fire district by excluding certain areas from the district and ap-

prove said petition as modified. The action of the township board or township boards, as the case may be, shall be by resolution which shall be published once in a newspaper of general circulation in the township. The township board of any township, or if the proposed fire district includes land in more than one township, then the governing body of such townships meeting and acting together shall adopt, by resolution, a proposition to create a new fire district, describing the area of land within the proposed fire district. Such proposition shall be submitted at the next general election to be held in such township or at a special election called for that purpose by the board of county commissioners. The proposition shall be submitted on a separate ballot in substantially the following form:

Proposition to create a new fire district consisting of (describe area to be included in fire district).

Yes No

Notice of such election shall be given by the county clerk by publication at least once each week for two consecutive weeks in a newspaper having a general circulation in such townships. At least 30 days shall elapse between the last publication and the date of the election. If a majority of the votes cast in the area of the proposed fire district shall be in the affirmative, such fire district shall be deemed created. The expenses of such election shall be paid by the county from the county general fund.

Sec. 5. K.S.A. 80-1541 is hereby amended to read as follows: 80-1541. ~~In the event the township board, or township boards, as the case may be, approve the creation of the fire district either as petitioned for or as modified, any landowner within such district, within 30 days after such publication, may appeal from the action of the township board or boards to the board of county commissioners of the county in which the township is located. Such appeal shall be in writing and shall state the objections to the action of the township board or boards and a copy thereof shall be filed with the township board or boards. Within 30 days after the filing of such an appeal, the board of county commissioners shall fix a time and place for hearing the appeal and give notice thereof by publication for two weeks in a newspaper of general circulation in the township. The date of the hearing shall be not more than 10 days after the date of the last publication, nor more than 60 days after the filing of such appeal. At such hearing or within 10 days thereafter, the board of county commissioners shall either approve or reject the creation of the fire district as fixed by the township board or boards, or may modify the same by excluding certain areas therefrom.~~

(a) ~~Upon the creation of a fire district by the township board or boards by the board of county commissioners on appeal, the governing body of the fire district as hereinafter provided, shall have authority to may:~~

- (1) ~~Levy taxes and assessments, to;~~
- (2) ~~enter into contracts, to;~~
- (3) ~~acquire, and operate and maintain fire-fighting equipment and to;~~
- (4) ~~acquire and construct buildings to house the same and to fire-fighting equipment;~~
- (5) ~~exercise eminent domain;~~
- (6) ~~exercise powers granted to fire districts under K.S.A. 80-1514, and amendments thereto;~~

(7) ~~issue general obligation bonds and no-fund warrants as provided under K.S.A. 80-1514b, and amendments thereto; and~~

(8) ~~do all things necessary to effectuate the purposes of this act. Any such district, when organized, shall have the right of eminent domain. In addition to the powers provided for in this section, the governing body shall have any powers granted to a fire district under K.S.A. 80-1514a, and amendments thereto. The governing body shall also have the authority to issue general obligation bonds and no-fund warrants under the provisions of K.S.A. 80-1514b, and amendments thereto.~~

(b) ~~Any territory included in any fire district created under the provisions of this act which is thereafter included within the corporate limits of any city by way of annexation thereafter is annexed by a city shall be excluded from the fire district and shall be furnished fire protection by the such city annexing it. Subject to the provisions of K.S.A. 19-270, new lands may be included in the district whenever a petition requesting such inclusion is filed with the governing body of the fire district under the same procedure and conditions as is~~

required for the creation of a fire district, but no area may be included which is already in an existing fire district or city without the consent of that district or city.

Sec. 6. K.S.A. 80-1542 is hereby amended to read as follows: 80-1542. ~~If such a fire district as created hereunder consists of~~ *includes* land in only one township, ~~then the township board located in less than four townships, the members of the township boards shall be the governing body of such fire district.~~ If such fire district ~~as created hereunder~~ includes land located in ~~two~~ four or more townships, ~~then~~ the governing body of ~~both~~ such townships ~~shall, meeting and acting together, shall adopt a resolution fixing the number of members from each township board that will constitute the governing body of such fire district and the period of time that such member will serve on the governing body of such fire district.~~ If the fire district includes land in three or more townships, then the governing body of each such townships shall appoint and designate one of its members to serve on the governing body of such fire district. If any of the members of the township board serving on the governing body of a fire district ~~created hereunder~~ do not reside in such fire district, ~~then~~ the township board shall appoint an elector of such township ~~and~~ residing in such fire district to serve on the governing body of such fire district in place of any member of the township board who does not reside in such fire district. In any fire district ~~created hereunder~~ in which there is located a city of the third class, which has consented to be included in such fire district, the governing body of such city shall appoint a person to serve as a member of the governing body of such fire district. *For a fire district which includes land in less than four townships,* a member of the township board once elected shall continue to serve as a member of the governing board of the fire district throughout the remainder of ~~his or her~~ *such person's* term as an officer of the township. The member appointed by a city of the third class shall serve on the governing body of such fire district until a successor is appointed. Any vacancy, ~~by way of death, resignation or for other reasons~~ shall be filled by the township or city of the third class from which such vacancy occurs.

New Sec. 7. (a) If any township has no residents, as certified by the county clerk of the county in which such township is located, the board of county commissioners, by resolution, may disorganize the township or consolidate the township with the next geographically closest township, within such county, having a functioning township board. Prior to the adoption of such resolution, the board of county commissioners shall conduct a public hearing on the advisability of adopting such resolution. Until such time as the disorganization or consolidation is completed, the board of county commissioners may exercise all of the statutory powers of the township board deemed necessary and advisable by such board of county commissioners.

(b) All books, papers, records, moneys and other assets belonging to any township proposed to be disorganized or consolidated under subsection (a) shall be delivered by the persons in possession thereof to the board of county commissioners. The board of county commissioners may dispose of any assets of such township in the manner provided by this section. If at the time of its disorganization or consolidation, the townships has any outstanding indebtedness, the board of county commissioners shall place any moneys together with the proceeds of any assets of such township into a special fund that shall be used for the purpose of paying such indebtedness. Moneys and assets in excess of that required for the payment of outstanding indebtedness either shall be transferred to the township with which the disorganized township is consolidated or shall be disposed of in such other manner as determined by the board of county commissioners to be in the best interests of the former residents or property owners of such township.

By renumbering the remaining sections accordingly;

Also on page 4, in line 25, preceding "and" by inserting ", 80-1540, 80-1541 and 80-1542";

In the title, in line 16, following "thereof;" by inserting "relating to fire protection;"; in line 17, following "19-3610" by inserting ", 80-1540, 80-1541 and 80-1542";

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 E. TOELKES
Conferees on part of House

Senator Allen moved the Senate adopt the Conference Committee Report on **HB 2712**.
 On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.
 The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2880**, 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 VRATIL
 DEREK SCHMIDT
 GRETA GOODWIN
Conferees on part of Senate

MICHAEL O'NEAL
 DOUG PATTERSON
 JANICE L. PAULS
Conferees on part of House

On motion of Senator Vratil, the Senate adopted the conference committee report on **HB 2880**, and requested a new conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a third Conference Committee on the part of the Senate on **HB 2880**.

ORIGINAL MOTION

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **HB 2067**.

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

CHANGE OF REFERENCE

The President withdrew **HB 2585** from the Committee on Federal and State Affairs, and referred the bill to the Committee on Agriculture.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Hensley, Barone, Betts, Downey, Gilstrap, Goodwin, Haley, Helgerson, Lee and Steineger introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1856—

A RESOLUTION proclaiming April 28, 2004, as Workers' Memorial Day in Kansas.

WHEREAS, The Kansas AFL-CIO and its affiliated unions are joining in a nationwide effort to commemorate workers injured, disabled or killed on the job and focus attention on what needs to be done to prevent such senseless deaths and injuries; and

WHEREAS, Each April 28, since 1989, Workers' Memorial Day has been observed in nearly one hundred countries and officially endorsed by the International Confederation of Free Trade Unions; and

WHEREAS, April 28th falls on the anniversary of the enactment of federal legislation creating the Occupational Safety and Health Administration (OSHA), which was signed into law by President Richard Nixon on April 28, 1971; and

WHEREAS, Since its inception, OSHA has assisted employers and employees to create better working conditions, and has helped to cut workplace fatalities by more than 60% and occupational injury and illness by 40%; and

WHEREAS, Despite OSHA's best efforts, an American worker is injured on the job every six seconds and is killed by a job-related injury every 47 minutes—more than 10,000 deaths each year. A hundred thousand more die a slow death from cancer, lung disease or other disabling conditions caused by exposure to toxics at work; and

WHEREAS, Last year, 42 of our fellow Kansans lost their lives in the workplace; and

WHEREAS, Today, April 28, 2004, Kansas workers will remember those who have suffered and died in the workplace. They will also join their brothers and sisters all across this country in a renewed commitment to prevent those tragedies from happening again: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we remember and recognize the American workers who have been injured, disabled or killed on the job by proclaiming April 28, 2004, as Workers' Memorial Day in Kansas; and

Be it further resolved: That the Secretary of the Senate provide five enrolled copies of this resolution to the Kansas AFL-CIO, 2131 S.W. 31st Street, Topeka, KS 66611.

On emergency motion of Senator Hensley **SR 1856** was adopted unanimously.

On motion of Senator Oleen the Senate adjourned until 9:00 a.m., Thursday, April 29, 2004.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

