

# Journal of the Senate

SIXTIETH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Saturday, April 30, 2005—9:30 a.m.

The Senate was called to order by President Stephen Morris.  
The roll was called with thirty-nine senators present.  
Senator Allen was excused.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

The wrap-up session is always a mixture of  
Wrapping up things which must be wrapped up;  
Trying to wrap up things we would like to wrap up;  
Wanting to wrap up everything and go home;  
And not letting the rush to go home leaving things unwrapped we will wish  
we had wrapped.

When our burden's getting heavy  
And it seems it weighs a ton  
The Lord's Prayer may help us  
When we pray, "Thy will be done."

"But how do we know what is His will?  
May be asked by everyone.  
Perhaps You then will show us  
When we pray, "thy will be done."

It makes a lot of sense to me,  
When YOU know more than anyone,  
That we come to You for wisdom  
As we pray, "Thy will be done."

I pray in the Name of Jesus Christ,  
AMEN

## MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **HB 2299**.  
The House adopts the conference committee report on **HB 2507**.

## CHANGE OF CONFERENCE

The President announced the appointment of Senators Umbarger, Emler and Barone as members of the Conference Committee on **SB 55** to replace Senators Brownlee, Jordan and Kelly.

## ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **HB 2477**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2477**, submits the following report:

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

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

By striking all on pages 2 through 5;

On page 6, by striking all in lines 1 through 5 and inserting the following:

“New Section 1. Sections 1 through 21, and amendments thereto, may be referred to as the private contract prison law.

New Sec. 2. Definitions. As used in the private contract prison law:

(a) “Private contract prison” means a correctional facility situated in this state that is not owned by the state of Kansas or any subdivision thereof or by the federal government or any subdivision thereof, but does not include any such correctional facility that is operated exclusively for federal inmates.

(b) “Private owner” means any corporation, partnership, limited liability company, trust, person or other legal entity that engages in, or proposes to engage in, the construction or ownership or both of a private contract prison in this state.

(c) “Private operator” means any corporation, partnership, limited liability company, person or other legal entity that engages in, or proposes to engage in, the operation of a private contract prison in this state.

(d) “Private contractor” means a private owner or a private operator or both.

(e) “Secretary” means the secretary of corrections.

(f) “Department” means the department of corrections.

(g) “Applicant” means a private contractor making application to the department of corrections for a license as provided by the private contract prison law.

(h) “Licensee” means a private contractor to which a valid license has been issued by the department of corrections as provided by the private contract prison law.

(i) “Private correctional officer” means a correctional officer as defined by subsection (f) of K.S.A. 75-5202, and amendments thereto, except that such officer is not an employee of the state of Kansas or any subdivision thereof.

(j) “Non-Kansas inmate” means any inmate in the custody of any jurisdiction other than the state of Kansas or any of its political subdivisions.

(k) “Kansas inmate” means any inmate in the custody of the secretary of corrections or any of the state’s political subdivisions.

(l) “Federal inmate” means any inmate in the custody of the federal government or any agency or authority thereof.

New Sec. 3. Except as authorized by K.S.A. 75-52,127 or 75-52,133, and amendments thereto, no private contractor shall authorize, construct, own or operate any private contract prison in this state for the placement or confinement of inmates unless such private contractor possesses a valid license as provided by the private contract prison law.

New Sec. 4. The secretary is hereby authorized to license, monitor and regulate one or more private contractors meeting the requirements of the private contract prison law to construct, own or operate one or more private contract prisons in this state.

New Sec. 5. The secretary shall not approve any application for a license pursuant to the private contract prison law unless the secretary has, after due diligence, made the following findings:

(a) The applicant has the qualifications, experience and management personnel necessary to design, construct, own or operate a private contract prison in a manner that satisfies the requirements of the private contract prison law;

(b) the applicant has the ability, if circumstances warrant, to expedite the siting, design and construction of a private contract prison;

(c) the applicant has the ability to comply with applicable laws, court orders and state and national correctional standards; and

(d) if Kansas inmates are being housed in the private contract prison, the private operator has the ability to provide correctional services to the state of Kansas at a cost that is no more than 90% of the department's average per capita operating cost for the previous fiscal year for comparable state correctional facilities and services.

New Sec. 6. Any license issued pursuant to the private contract prison law shall require as conditions of such license all of the following:

(a) All private correctional officers employed by the licensee must be certified, at the licensee's expense, as having met the minimum qualifications and training requirements established for correctional officers by the secretary and as are required of state correctional officers;

(b) the design for any private contract prison constructed, owned or operated by the licensee shall meet or exceed all requirements of the association responsible for adopting national correctional standards consistent with the American correctional association standards as determined by the secretary;

(c) the design for any private contract prison, including, but not limited to, siting, shall meet or exceed any standard established by the secretary;

(d) the licensee shall at all times consult the secretary during the design and construction of the private contract prison;

(e) the licensee shall indemnify the state and the secretary, including their subdivisions, officials and agents, against any and all liability including, but not limited to, any civil rights claims. The secretary shall require proof of satisfactory insurance, the amount to be determined by the secretary;

(f) the licensee shall seek, obtain and maintain accreditation by the American correctional association and the national commission on correctional health care. In addition, the licensee shall comply with those associations' amendments to the accreditation standards upon approval of such amendments by the secretary. The secretary shall not unreasonably withhold approval so as to facilitate compliance with required standards by the licensee;

(g) the licensee shall agree to abide by operations standards for correctional facilities as adopted by the secretary;

(h) if Kansas inmates are being housed in the private contract prison, the licensee shall be responsible for the range of dental, medical and psychological services and diet, education and work programs at least equal to those services and programs provided by the secretary at comparable state correctional facilities. The work and education programs shall be designed to reduce recidivism;

(i) the secretary shall monitor all private contract prisons and the secretary and the department shall have unrestricted access to all private contract prisons for that purpose. The licensee shall bear the costs of monitoring the facility;

(j) if the department contracts to house Kansas inmates at the licensee's private contract prison, the licensee shall incarcerate all inmates assigned to the private contract prison by the department and as specified by the contract and may not reject inmates assigned to it by the department. The department shall have the right of first refusal to any space in the licensee's private contract prison, whether or not such space is occupied by non-Kansas inmates. The department may not exceed the maximum occupancy designated in the contract for the private contract prison;

(k) the licensee may not benefit financially from the labor of inmates except that inmates housed in any private contract prison operated by the licensee in this state may be given job assignments that assist in the operation and maintenance of the facility, including but not limited to janitorial or food service, or constitute work crews for the state or nearby communities if the inmates have the appropriate custody designation;

(l) if the licensee enters into a contract to house non-Kansas inmates, the licensee must require as a condition of that contract that each such inmate to be released from custody must be released in the sending state;

(m) the licensee shall post a bond, in an amount of \$5,000,000 and in a form acceptable to the secretary, from a surety licensed to conduct surety business in the state of Kansas, to indemnify and hold the state harmless for any and all costs associated with any criminal conduct committed by the inmates being incarcerated at a private contract prison. Such costs shall include, but not be limited to, court costs, law enforcement investigation,

prosecution, defense, if such inmate is appointed counsel pursuant to article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, and incarceration;

(n) whenever any non-Kansas inmate is proposed to be brought into this state for the purpose of being incarcerated at a private contract prison, all records regarding each such inmate, including, but not limited to, custody records, facility history records, disciplinary records and medical and mental health records, shall be reviewed by the department prior to such inmate being transported into this state. The cost of such review shall be borne by the licensee through the administration of the licensing fee pursuant to section 21, and amendments thereto. The secretary shall have authority to refuse to allow any non-Kansas inmate to be transported to or incarcerated in any private contract prison;

(o) the licensee shall be subject to review by the legislative division of post audit; and

(p) any other provision the secretary considers necessary and appropriate for carrying out the purpose of the private contract prison law.

New Sec. 7. license issued pursuant to the private contract prison law shall be construed as authorizing, allowing or delegating authority to the licensee to:

(a) With regard to Kansas inmates being housed at a private contract prison, reject any inmate appropriately classified by the Kansas custody classification system for the custody level or levels of the private facility;

(b) with regard to Kansas inmates who are being housed at a private contract prison, develop or adopt disciplinary rules or penalties that differ from the disciplinary rules and penalties that apply to inmates housed in correctional facilities operated by the secretary. With regard to non-Kansas inmates, the licensee may develop or adopt disciplinary rules or penalties consistent with the requirements of the sending entity provided that the secretary shall retain authority to review and approve or reject any such rules or penalties;

(c) make a final determination on a disciplinary action that affects the liberty of an inmate. The licensee may remove an inmate from the general prison population during an emergency, before final resolution of a disciplinary hearing in response to an inmate's request for assigned housing in protective custody or when otherwise necessary to maintain order and security of the private contract prison;

(d) make a decision that affects the sentence imposed upon or the time served by an inmate, including a decision to award, deny or forfeit earned time;

(e) make recommendations to the Kansas parole board with respect to the denial or granting of parole or release except the licensee may submit written reports to the Kansas parole board and shall respond to any written request for information by the Kansas parole board;

(f) develop and implement requirements that inmates engage in any type of work not previously authorized in the private contract prison law, except to the extent that those requirements are accepted by the department; and

(g) determine inmate eligibility for any form of release from a correctional facility including any private contract prison.

New Sec. 8. (a) No private contract prison shall house inmates until:

(1) The private operator has submitted to the secretary, and the secretary has approved, a plan for the private operator to assume temporary control and operation of the private contract prison in the event the private operator becomes unable to meet the requirements of the private contract prison law;

(2) each private contractor, whether a private owner or a private operator, or both, involved in the private contract prison has submitted to the secretary, and the secretary has approved, a plan for the temporary assumption of operations and purchase of the private contract prison by the secretary in the event of bankruptcy or the financial insolvency of any such private contractor; and

(3) the private operator has submitted to the secretary, and the secretary has approved, a plan to address emergencies including, but not limited to, inmate disturbances, employee work stoppages, employee strikes, escapes, natural disaster threats, bomb threats, riots, hunger strikes, taking of hostages, fires, explosions, evacuations, hazardous material spills or other serious events. The plan shall comply with applicable national correctional standards. The plan shall identify how the state shall recover its costs for such assumptions of operation or other interventions. The private operator shall be liable for all expenses

incurred by the state and its subdivisions in responding to any emergency or serious event. Such expenses shall be consistent with the department's policies and procedures concerning such emergency or serious event.

(b) The secretary may from time to time require the private contractor to review, revise or update any plan required by this section. The private contractor shall comply promptly with any request by the secretary pursuant to this subsection, and failure by any private contractor to do so within a reasonable period of time shall constitute cause for suspension of such private contractor's license.

(c) Nothing in this section shall be construed to require the state to purchase or lease any private contract prison or to assume responsibility for the operation of any private contract prison or to assume costs associated with events described in this section.

New Sec. 9. The secretary may suspend or revoke a license for cause, including, but not limited to, failure to obtain or maintain facility accreditation or failure to comply with any requirement of the private contract prison law, after written notice of material deficiencies and after 60 workdays have been provided to the contractor to submit a plan of action to correct the material deficiencies.

New Sec. 10. If, as determined by the secretary, an emergency occurs involving the noncompliance with or violation of the requirements of the private contract prison law and presents a serious threat to the safety, health or security of the inmates, employees or the public, the secretary may require immediate or timely corrective action or may, without prior notice, temporarily assume operation and control of the private contract prison. Nothing in this section shall be construed to require the state to assume responsibility for the operation of private contract prisons or for costs associated with events described in this section. If the state chooses, it may assume responsibility upon approval by the legislature through the enactment of legislation.

New Sec. 11. If a private owner intends to sell, convey, transfer, donate, trade, barter or otherwise alienate title to a private contract prison, the private owner shall first give notice of such intent to the secretary. The state shall have the right of first refusal to lease or purchase such private contract prison at fair market value, although the state shall not be required to do so. Except as provided in this section, a private contract prison may be transferred only to an entity that is licensed as required by the private contract prison law.

New Sec. 12. Each private operator shall require applicants for employment at a private contract prison to submit a set of fingerprints to the Kansas bureau of investigation for a criminal background check. The Kansas bureau of investigation may accept fingerprints of individuals who apply for employment at a private contract prison and who shall be subject to background checks. For the purpose of conducting background checks, to the extent provided for by federal law, the Kansas bureau of investigation may exchange with the secretary criminal history records, whether state, multi-state or federal, of individuals who apply for employment at a private contract prison.

New Sec. 13. The private contract prison law shall not apply to the contracts between cities and counties and the secretary under which the city or county agrees to house the backlog of inmates as provided by K.S.A. 75-52,128 and 75-52,129, and amendments thereto, which contracts shall be governed by such statutes.

New Sec. 14. Any private operator licensed under the private contract prison law shall collect and maintain data with respect to all Kansas and non-Kansas inmates housed by the private contractor, in a fashion compatible with Kansas department of corrections practices and procedures for inmate data collection and maintenance, as specified by the secretary.

New Sec. 15. (a) Any county that meets the requirements of this section may contract with a private contractor to develop and construct, own or operate a private contract prison in such county.

(b) No private contract prison shall be constructed, owned or operated pursuant to the private contract prison law in any county unless the county commission has received written notice of approval from the sheriff of such county and the secretary of corrections. Upon receipt of such notice, the board shall adopt a resolution placing on the ballot the question in subsection (c). No private prison shall be constructed pursuant to this section until the question has been submitted to and approved by a majority of the qualified voters of the

county voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law.

(c) The form of the question described in subsection (b) shall be: "Shall construction and operation of a private contract prison, pursuant to the Private Contract Prison Law, be allowed in \_\_\_\_\_ County?"

(d) Except for land donation, no direct incentives, such as property tax abatement, industrial revenue bonds, tax increment financing or utility cost reductions, shall be offered by the county to the private contractor wishing to construct, own or operate a private contract prison in such county.

(e) At the discretion of the parties, the contract may allow for the leasing of the private contract prison by the private owner to the county or to the state.

New Sec. 16. No contract for site construction between the county and the private contractor authorized by the private contract prison law shall enter into force until reviewed and approved by the attorney general, as to form and legal sufficiency, and the secretary, as to the determination of the best interests of the state of Kansas.

New Sec. 17. A contract entered into under the private contract prison law does not accord third-party beneficiary status to any inmate or to any member of the general public.

New Sec. 18. In the event any provision of any contract authorized by the private contract prison law conflicts with any provision of any license issued pursuant to the private contract prison law, the provision of the license shall supersede the provision of the contract. In the event any provision of any contract authorized by the private contract prison law conflicts with any provision of the private contract prison law, the provision of the private contract prison law shall supersede the provision of the contract.

New Sec. 19. Nothing in the private contract prison law shall be construed as requiring the department of corrections to place Kansas inmates in any private facility constructed, owned or operated pursuant to the private contract prison law. Placement of Kansas inmates in such private facility shall be at the discretion of the secretary based on department needs and the best interest of the state and shall only be pursuant to contract between the secretary and the private operator.

New Sec. 20. Not later than December 1 of each year, beginning with the fiscal year ending June 30, 2006, the secretary shall submit a report to the speaker of the house of representatives and the president of the senate concerning the status of contracts in effect and licenses issued, and with respect to completed prisons, the effectiveness of each private contract prison operated pursuant to the private contract prison law.

New Sec. 21. There is hereby created in the state treasury the corrections licensing fee fund. All moneys collected by the secretary from licensing application fees, monitoring fees, and any other fees authorized by the private contract prison law shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the corrections licensing fee fund. All the moneys collected and deposited pursuant to this subsection shall be used solely for payment of the costs associated with the implementation and enforcement of the private contract prison law. The secretary shall adopt rules and regulations prescribing the fees necessary for the implementation and enforcement of the private contract prison law.

Sec. 22.

DEPARTMENT OF CORRECTIONS

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2006, for the capital improvement project or projects specified as follows:

Debt service payment for the revenue refunding bond issues.....	\$575,303
Debt service payment for the Wichita work release facility bond issue...	\$170,000
Debt service payment for the Ellsworth correctional facility at Ellsworth, Kansas .....	\$1,620,000
Debt service payment for the reception and diagnostic unit relocation bond issue .....	\$1,336,000
Debt service payment for the Topeka and Lansing correctional facility bond issue .....	\$1,018,000

(b) There is appropriated for the above agency from the correctional institutions building fund for the fiscal year ending June 30, 2006, for the capital improvement project or projects specified as follows:

Debt service payment for the revenue refunding bond issues..... \$1,689,697

Sec. 23. K.S.A. 2004 Supp. 75-52,129 is hereby amended to read as follows: 75-52,129.

(a) The secretary of corrections is hereby authorized to negotiate and enter into contracts with Kansas cities and counties for the placement of inmates, who are classified as medium custody or any higher custody or security classification, in facilities owned and operated by the cities and counties. If the secretary of corrections proposes to place any inmates classified as medium custody or any higher custody classification for confinement in facilities other than correctional or other institutions or facilities owned and operated by the department of corrections or any other state agency, the secretary of corrections shall give first consideration to entering into contracts with Kansas cities and counties under this section before attempting to place any such inmate for confinement at any *private contract prison, as defined in section 2, and amendments thereto, or any* location outside the state of Kansas if the facilities to be provided under such contracts are substantially equal to *private contract prisons or facilities at locations outside the state of Kansas and if arrangements can be made in a timely manner.* Except as provided in subsection (b), the provisions of this section and any contract or preliminary letter of commitment entered into pursuant to this section shall not apply to any minimum custody or community custody status inmates, or any other custody or security classification lower than medium custody, or to any inmate who may be placed in a work release or prerelease program, center or facility by the secretary of corrections, who is eligible for parole or who is placed pursuant to the interstate corrections compact. Contracts entered into pursuant to this section shall not be subject to competitive bid requirements under K.S.A. 75-3739 and amendments thereto.

(b) The secretary shall not enter into any contract as provided in subsection (a) with any city or county of this state for the placement of inmates that does not provide that such city or county shall provide and maintain appropriate and recognized standards of safety, health and security.

Sec. 24. K.S.A. 2004 Supp. 75-52,129 is hereby repealed.”

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking all after “concerning”; in line 11, by striking all before the period and inserting “correctional facilities; relating to construction by private companies; debt service for capital improvements for state correctional facilities; making and concerning appropriations for the fiscal year ending June 30, 2006; amending K.S.A. 2004 Supp. 75-52,129 and repealing the existing section”;

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

DWAYNE UMBARGER  
JAY SCOTT EMLER  
JIM BARONE  
*Conferees on part of Senate*

MELVIN NEUFELD  
BRENDA LANDWEHR  
BILL FEUERBORN  
*Conferees on part of House*

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2477**.

On roll call, the vote was: Yeas 26, Nays 13, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Brownlee, Bruce, Donovan, Huelskamp, Jordan, Journey, Morris, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barone, Betts, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Kelly, Lee, McGinn, Schmidt V.

Absent or Not Voting: Allen.

The Conference Committee report was adopted.

#### **FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS**

On motion of Senator D. Schmidt an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **SR 1862** was advanced to Final Action, subject to amendment, debate and roll call.

**SR 1862**, A resolution memorializing the Congress of the United States to continue the current federal moratorium on specialty hospitals.

On roll call, the vote was: Yeas 34, Nays 4, Present and Passing 1, Absent or Not Voting 1.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostmeier, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Barone, Betts, Haley, Hensley.

Present and Passing: Wilson.

Absent or Not Voting: Allen.

The resolution was adopted.

#### **EXPLANATION OF VOTE**

MR. PRESIDENT: I must vote no on this resolution and call attention to the following resolution which was introduced in the House.

Whereas, the growth of specialty hospitals has risen from the demand of patients, physicians, nurses and insurers for a more efficient, cost effective and patient friendly healthcare system; and

Whereas, patients are demanding more input into their own care; and

Whereas, studies show that patient and physician satisfaction rates are highest when care is provided in a specialty hospital environment; and

Whereas, the Hospital Salary and Benefits Report of 2004-2005 reported that 98% of patients would recommend a surgical hospital to others; and

Whereas, patient care is more intimate and personal because of a lower nurse to patient ratio at specialty hospitals: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That the Kansas House of Representatives memorializes the Congress of the United States to support and encourage the use of specialty hospitals; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to each member of the Kansas congressional delegation.

Mr. President, even though I support much of **SR 1862**, I must vote no, there is another side to the issue.—JIM BARONE

#### **REPORT ON ENGROSSED BILLS**

**SB 117** reported correctly engrossed April 29, 2005.

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

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#### **AFTERNOON SESSION**

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

#### **MESSAGE FROM THE HOUSE**

The House announces the appointment of Representatives Neufeld, Landwehr and Feuerborn to replace Representatives Dahl, Novascone and Ruff as conferees on **SB 55**.

Also, the House announces the appointment of Representative Merrick to replace Representative O'Neal as a conferee on **SB 43**.



**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 181**, submits the following report:

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

On page 1, by striking all in lines 29 through 43;

On page 2, by striking all in lines 1 through 9; following line 9, by inserting:

“New Sec. 2. (a) In any action alleging a violation of article 6 of the Kansas constitution, venue shall be brought in the county as designated by the three judge panel appointed pursuant to section 1, and amendments thereto. In making such designation, the judicial panel shall consider the location of the parties and the witnesses.

(b) In any action alleging a violation of article 6 of the Kansas constitution in which the plaintiff alleges that the legislature has failed to provide intellectual, educational, vocational and scientific improvement in public schools or has failed to make suitable provision for finance of the educational interests of the state, it shall be the plaintiff’s burden to prove that state moneys appropriated by the legislature, including any moneys specified in subsection (c) of K.S.A. 72-6410, and amendments thereto, were not adequate to fund the cost of providing the subjects or areas of instruction required by state law to be provided in accredited schools, including reasonable and necessary related instruction, administration, support staff, supplies, equipment and building costs. In any such action in which the plaintiff alleges that such moneys have not been equitably appropriated or allocated, it shall be the plaintiff’s burden to prove that such moneys were not equitably appropriated or allocated.

(c) In determining whether a plaintiff has met its burden of proof as specified in subsection (b), the judicial panel shall make such determination based on an analysis of adequacy or equity had such moneys been utilized first to fund the reasonable and necessary costs of providing the required subjects or areas of instruction and related services specified in subsection (b). The judicial panel shall not be bound by the manner in which such moneys were utilized, in fact, by the school district.

(d) Nothing in this section shall be construed as applying to any moneys derived from a tax imposed pursuant to K.S.A. 72-6435, and amendments thereto.”;

Also on page 2, in line 31, by striking “Article” and inserting “article”;

On page 3, following line 4, by inserting:

“Sec. 4. K.S.A. 2004 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  $\frac{5}{6}$  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  $\frac{5}{6}$  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~~ 5,900 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.";

By renumbering sections accordingly;

Also on page 3, in line 5, by striking "is" and inserting "and 72-6407 are";

In the title, by striking all in lines 9, 10 and 11 and inserting:

AN ACT concerning school finance; relating to actions filed in relation thereto; relating to certain defined terms; amending K.S.A. 2004 Supp. 60-2102 and 72-6407 and repealing the existing sections.";

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

KATHE DECKER  
MICHAEL O'NEAL  
*Conferees on part of House*

JOHN VRATIL  
DEREK SCHMIDT  
*Conferees on part of Senate*

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 181**.  
On roll call, the vote was: Yeas 7, Nays 32, Present and Passing 0, Absent or Not Voting

1.

Yeas: Brownlee, Bruce, Donovan, Huelskamp, O'Connor, Palmer, Vratil.

Nays: Apple, Barnett, Barone, Betts, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, McGinn, Morris, Ostmeyer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The Conference Committee report was not adopted.

#### **ORIGINAL MOTION**

Senator D. Schmidt 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: **Sub HB 2261**.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Substitute for HB 2261**, 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 5, by striking all in lines 15 through 22 and inserting the following:

"New Section 1. (a) The supreme court may require an applicant for admission to practice law in this state to be fingerprinted and submit to a national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal arrests and convictions in this state or other jurisdictions. The supreme court and the state board of law examiners are authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of law examiners and the supreme court may use the information obtained from fingerprinting and the applicant's criminal history only for purposes of verifying the identification of any applicant and in the official determination of character and fitness of the applicant for admission to practice law in this state.

(b) Local and state law enforcement officers and agencies shall assist the supreme court in taking and processing of fingerprints of applicants seeking admission to practice law in this state and shall release all records of an applicant's arrests and convictions to the supreme court and the state board of law examiners.

Sec. 2. K.S.A. 7-103 is hereby amended to read as follows: 7-103. (a) The supreme court of this state may make such rules as it may deem necessary for the examination of applicants for admission to the bar of this state and for the discipline and disbarment of attorneys.

(b) *The supreme court of this state may allow persons who have been granted and hold a juris doctorate degree or bachelor of laws degree from the president's law school to apply seeking admission to the bar of this state. Such applicants shall satisfy all other qualifications and examinations as established by supreme court rule.*

Sec. 3. K.S.A. 2004 Supp. 38-1552a is hereby amended to read as follows: 38-1552a. ~~(a)~~ Notwithstanding K.S.A. 38-1552, and amendments thereto and any other provision of law to the contrary, and within the limits of appropriations therefor, a pilot project shall be

established by the office of judicial administration ~~in one rural and one urban~~ shall implement a policy for each judicial district in which such judicial district shall implement proceedings under the Kansas code for care of children in which the court may exclude from any hearing all persons except the guardian *ad litem*, interested parties and their attorneys, officers of the court, the witness testifying, the child's foster parents and up to two people, both of whom have participated in a parent ~~advocate ally~~ orientation program approved by the judicial administrator, and designated by the parent of the child. Such parent ~~advocate ally~~ orientation program shall include but not be limited to information concerning the confidentiality of the proceedings; the child and parent's right to counsel; the definitions and jurisdiction pursuant to the Kansas code for care of children; the types and purposes of the hearings; options for informal supervision and dispositions; placement options; the parent's obligation to financially support the child while the child is in the state's custody; obligations of the secretary of social and rehabilitation services; obligations of entities that contract with the department of social and rehabilitation services for family preservation, foster care and adoption; the termination of parental rights; the procedures for appeals; and the basic rules regarding court procedure. Upon agreement of all interested parties, the court shall allow other persons to attend the proceedings, unless the court finds the presence of the persons would be disruptive to the proceedings. The court ~~shall not~~ may remove the parent's ~~designee ally~~ or ~~designees allies~~ from any proceeding unless a proceeding if such ~~designee ally~~ becomes disruptive in ~~such the present proceeding or has been found disruptive in a prior proceeding.~~

~~(b) Upon completion of the pilot project, the office of judicial administration shall make a report to the legislature.~~

~~(c) The provisions of this section shall expire on July 1, 2005;~~

And by renumbering the remaining sections accordingly;

Also on page 5, in line 23, by striking "22-2501 is" and inserting "7-103 and K.S.A. 2004 Supp. 38-1552a and section 1 of 2005 Senate Bill No. 36 are";

In the title, in line 12, by striking all after "concerning;" by striking all in lines 13 and 14; in line 15, before the period by inserting "courts; amending K.S.A. 7-103 and K.S.A. 2004 Supp. 38-1552a and repealing the existing sections; also repealing section 1 of 2005 Senate Bill No. 36";

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

JOHN VRATIL  
TERRY BRUCE  
GRETA GOODWIN  
*Conferees on part of Senate*

WARD LOYD  
THOMAS C. OWENS  
PAUL T. DAVIS  
*Conferees on part of House*

Senator Vratil moved the Senate adopt the Conference Committee Report on **Sub HB 2261**.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O'Connor, Ostneyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Haley.

Absent or Not Voting: Allen.

The Conference Committee report was adopted.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I, mistakenly, vote "No" on **Sub HB 2261**. This bill originally contained a provision which would have potentially made the "fruit" of any warrantless search admissible if incident to "A" crime and not to "the" crime for which the arrest was incident.

Learning now, after the vote, that this provision for those potential “fishing expeditions” was removed, I would have voted in favor (or “aye”) on **Sub HB 2261**.—DAVID HALEY

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2314**, submits the following report:

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

On page 1, by striking all in lines 17 through 43;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 27;

And by renumbering sections accordingly;

On page 6, after line 7, by inserting the following:

“(b) Any information posted on an internet website sponsored or created by a sheriff’s office or the Kansas bureau of investigation shall identify, in a prominent manner, whether an offender is or is not a sex offender.”;

And by relettering the remaining subsections accordingly;

Also on page 6, in line 28, by striking “22-4902,”;

On page 1, in the title, in line 13, by striking “22-4902,”;

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

JOHN VRATIL  
TERRY BRUCE  
GRETA GOODWIN  
*Conferees on part of Senate*

WARD LOYD  
THOMAS C. OWENS  
PAUL T. DAVIS  
*Conferees on part of House*

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2314**. On roll call, the vote was: Yeas 38, Nays 1, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O’Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Haley.

Absent or Not Voting: Allen.

The Conference Committee report was adopted.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **HB 2314** but with disappointment that we don’t take a stronger stand to protect our children against sexual predators. We must do better in placing the rights of our children, to be protected above the predator’s supposed right to not have their name and address released publicly.—KARIN BROWNLEE

Senators Barnett, Bruce, Journey, O’Connor, Pine, Pyle, Umbarger, Vratil and Wysong request the record to show they concur with the “Explanation of Vote” offered by Senator Brownlee on **HB 2314**.

#### MESSAGE FROM THE HOUSE

Announcing the House adopts the Conference Committee Report to agree to disagree on **House Substitute for SB 272** and has appointed Representatives Neufeld, Landwehr and Feuerborn as second conferees on the part of the House.

The House adopts the conference committee report on **SB 266**.

The House concurs in Senate amendments to **Senate Substitute for HB 2480**.

The House concurs in Senate amendments to **Substitute HB 2512**.

The House concurs in Senate amendments to **Senate Substitute for HB 2228** and requests the Senate to return the bill.

The House announces the appointment of Representative O'Neal to replace Representative Merrick as a conferee on **SB 43**.

#### ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 266**; **H Sub for SB 272**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 266**, submits the following report:

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

On page 1, by striking all in lines 16 through 43;

On page 2, by striking all in lines 1 through 3 and inserting the following:

"Section 1. K.S.A. 2004 Supp. 47-1721 is hereby amended to read as follows: 47-1721.

(a) Each application for issuance or renewal of a license or permit required under K.S.A. 47-1701 *et seq.*, and amendments thereto, shall be accompanied by the fee prescribed by the commissioner under this section. Such fees shall be as follows:

(1) Except as provided in paragraph (5) or (6), for a license for premises of a person licensed under public law 91-579 (7 U.S.C. § 2131 *et seq.*), an amount not to exceed ~~\$150~~; \$200;

(2) Except as provided in paragraph (5) or (6), for a license for any other premises, an amount not to exceed ~~\$300~~; \$405;

(3) for a temporary closing permit, an amount not to exceed ~~\$75~~; \$95;

(4) for an out-of-state distributor permit, an amount not to exceed ~~\$500~~; \$675;

(5) for a hobby breeder license or a kennel operator license an amount not to exceed ~~\$75~~; \$95;

(6) for a license for an animal shelter or a pound, an amount not to exceed \$300; and

~~(6)~~ (7) a late fee of ~~\$50~~ \$70 shall be assessed to any person whose permit or license renewal is more than 45 days' late.

(b) The commissioner shall determine annually the amount necessary to carry out and enforce K.S.A. 47-1701 *et seq.*, and amendments thereto, for the next ensuing fiscal year and shall fix by rules and regulations the license and permit fees for such year at the amount necessary for that purpose, subject to the limitations of this section. In fixing such fees, the commissioner may establish categories of licenses and permits, based upon the type of license or permit, size of the licensed or permitted business or activity and the premises where such business or activity is conducted, and may establish different fees for each such category. The fees in effect immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the commissioner as provided by this subsection.

(c) If a licensee, permittee or applicant for a license or permit requests an inspection of the premises of such licensee, permittee or applicant, the commissioner shall assess the costs of such inspection, as established by rules and regulations of the commissioner, to such licensee, permittee or applicant.

(d) No fee or assessment required pursuant to this section shall be refundable.

(e) The commissioner shall remit all moneys received by or for the commissioner under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the animal dealers fee fund, which is hereby created in the state treasury. Moneys in the animal dealers fee fund may be expended only to administer and enforce K.S.A. 47-1701 *et seq.*, and amendments thereto. All expenditures from the animal dealers fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the Kansas livestock commissioner or the commissioner's designee.

(f) Premises required to be licensed under the Kansas pet animal act shall not be required to pay for more than one license. If more than one operation is ongoing at the premises, each operation shall comply with the applicable statutes and rules and regulations pertaining to such operation.

(g) Except as provided further, when a premises required to be licensed or permitted under the Kansas pet animal act applies for an initial license or permit, the commissioner shall prorate to the nearest whole month the license or permit fee established in subsection (a). The commissioner shall have discretion to determine whether the application is an initial application or an application for a premises which has been doing business but is not licensed or permitted. If the commissioner determines the premises has been doing business without a license or permit, the commissioner is not required to prorate the fee.

(h) This section shall be part of and supplemental to K.S.A. 47-1701 *et seq.*, and amendments thereto.

Sec. 2. K.S.A. 47-1707 is hereby amended to read as follows: 47-1707. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the commissioner, upon a finding that a person has violated or failed to comply with any provision of the Kansas pet animal act or any rule and regulation adopted hereunder, may impose on such person a civil fine not exceeding \$1,000 for each violation *or requirement to attend an educational course regarding animals and their care and treatment. If the commissioner imposes the educational course, such person may choose either the fine or the educational course. If such person chooses the fine, the commissioner shall establish the amount pursuant to the fine provisions of this section. The educational course shall be administered by the commissioner in consultation with Kansas state university college of veterinary medicine.*

(b) Any imposition of a civil fine pursuant to this section shall be only upon notice and a hearing conducted in accordance with the Kansas administrative procedure act and shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(c) Whenever the commissioner has reasonable grounds to believe that a person or premises required to be licensed or permitted under the Kansas pet animal act has failed to comply with or has violated any provision of the Kansas pet animal act or any rule and regulation adopted hereunder and that the health, safety or welfare of animals in such person's possession, custody or care is endangered thereby, the commissioner shall seize and impound such animals using emergency adjudicative proceedings in accordance with the Kansas administrative procedure act. Except as provided by K.S.A. 21-4311, and amendments thereto, such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold, placed or euthanized, at the discretion of the commissioner. Costs of care and services for such animals while seized and impounded shall be paid by the person from whom the animals were seized and impounded, if that person is found to be in violation of the Kansas pet animal act or any rules and regulations adopted hereunder. Such funds shall be paid to the commissioner for reimbursement of care and services provided during seizure and impoundment. If such person is not found to be in violation of the Kansas pet animal act or any rules and regulations adopted hereunder, the commissioner shall pay the costs of care and services provided during seizure and impoundment.

Sec. 3. K.S.A. 47-1709 is hereby amended to read as follows: 47-1719. (a) The commissioner or the commissioner's authorized, trained representatives shall make an inspection of the premises for which an application for an original license or permit is made under K.S.A. 47-1701 *et seq.*, and amendments thereto, before issuance of such license or permit. The application for a license shall conclusively be deemed to be the consent of the applicant to the right of entry and inspection of the premises sought to be licensed or permitted by the commissioner or the commissioner's authorized, trained representatives at reasonable times with the owner or owner's representative present. Refusal of such entry and inspection shall be grounds for denial of the license or permit. Notice need not be given to any person prior to inspection.

(b) The commissioner or the commissioner's authorized, trained representatives may make an inspection of each premises for which a license or permit has been issued under K.S.A. 47-1701 *et seq.*, and amendments thereto. If such premises are premises of a person



licensed or permitted under public law 91-579 (7 U.S.C. § 2131 et seq.), such premises may be inspected at least once each year. Otherwise, the premises may be inspected at least twice each year. The acceptance of a license or permit shall conclusively be deemed to be the consent of the licensee or permittee to the right of entry and inspection of the licensed or permitted premises by the commissioner or the commissioner's authorized, trained representatives at reasonable times with the owner or owner's representative present. Refusal of such entry and inspection shall be grounds for suspension or revocation of the license or permit. Notice need not be given to any person prior to inspection.

(c) The commissioner or the commissioner's authorized, trained representatives shall make inspections of the premises of a person required to be licensed or permitted under K.S.A. 47-1701 et seq., and amendments thereto, upon a determination by the commissioner that there are reasonable grounds to believe that the person is violating the provisions of K.S.A. 47-1701 et seq., and amendments thereto, or rules and regulations adopted thereunder or that there are grounds for suspension or revocation of such person's license or permit.

(d) Any complaint filed with the commissioner shall be confidential and shall not be released to any person other than employees of the commissioner as necessary to carry out the duties of their employment.

(e) Any person making inspections under this section shall be trained by the commissioner in reasonable standards of animal care.

(f) The commissioner may request a licensed veterinarian to assist in any inspection or investigation made by the commissioner or the commissioner's authorized representative under this section.

(g) Any person acting as the commissioner's authorized representative for purposes of making inspections and conducting investigations under this section who knowingly falsifies the results or findings of any inspection or investigation or who intentionally fails or refuses to make an inspection or conduct an investigation pursuant to this section shall be guilty of a class A nonperson misdemeanor.

(h) No person shall act as the commissioner's authorized representative for the purposes of making inspections and conducting investigations under this section if such person has a beneficial interest in a person required to be licensed or permitted pursuant to K.S.A. 47-1701 et seq., and amendments thereto.

(i) Records of inspections pursuant to this section shall be maintained in the office of the Kansas animal health department. Records of a deficiency or violation shall not be maintained for longer than three years after the deficiency or violation is remedied.

(j) *The commissioner shall, in consultation with Kansas state university college of veterinary medicine: (1) Continue procedures to provide for pet animal training or updated training for authorized trained representatives who inspect premises under the pet animal act and to allow the owners of such facilities licensed or permitted under the pet animal act to attend and participate at the training workshops for the authorized trained representatives; and (2) make available to such owners and other interested persons an inspection handbook describing the duties and responsibilities of such authorized trained representatives.*

Sec. 4. K.S.A. 47-1707 and 47-1709 and K.S.A. 2004 Supp. 47-1721 are hereby repealed.

Sec. 5. 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 lines 12 and 13 and inserting:  
 “AN ACT concerning animals; relating to the pet animal act; amending K.S.A. 47-1707 and 47-1709 and K.S.A. 2004 Supp. 47-1721 and repealing the existing sections.”;

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

MELVIN NEUFELD  
 SHARON SCHWARTZ  
 BILL FEUERBORN  
*Conferees on part of House*

DWAYNE UMBARGER

JAY SCOTT EMLER

JIM BARONE

*Conferees on part of Senate*

Senator Umbarger moved the Senate adopt the Conference Committee Report on **SB 266**.

On roll call, the vote was: Yeas 24, Nays 15, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barone, Betts, Bruce, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Hensley, Kelly, Lee, McGinn, Morris, Pine, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Umbarger, Vratil, Wysong.

Nays: Barnett, Brownlee, Donovan, Haley, Huelskamp, Jordan, Journey, O'Connor, Ostmeyer, Palmer, Petersen, Pyle, Teichman, Wagle, Wilson.

Absent or Not Voting: Allen.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote "No" on **SB 266**.

This drastic fee increase in this industry does nothing to protect our old friend "Scruffy" . . . and I believe that others in this chamber feel the same way.—DAVID HALEY

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 272**, 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.

MELVIN NEUFELD

BRENDA LANDWEHR

BILL FEUERBORN

*Conferees on part of House*

DWAYNE UMBARGER

JIM BARNETT

JIM BARONE

*Conferees on part of Senate*

On motion of Senator Umbarger, the Senate adopted the conference committee report on **H Sub for SB 272**, and requested a new conference committee be appointed.

The President appointed Senators Umbarger, Barnett and Barone as a second Conference Committee on the part of the Senate on **H Sub for SB 272**.

**REPORT ON ENGROSSED BILLS**

**SB 118, SB 216, SB 296** reported correctly engrossed April 30, 2005.

Also, **SB 72, SB 304** correctly re-engrossed April 30, 2005.

**REPORT ON ENROLLED BILLS**

**SR 1864, SR 1865** reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 30, 2005.

On motion of Senator D. Schmidt, the Senate recessed until 8:30 p.m.

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EVENING SESSION

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

**MESSAGE FROM THE HOUSE**

Announcing the House adopts the conference committee report on **HB 2314**.  
Also, the House adopts the conference committee report on **House Substitute for SB 272**.

**ORIGINAL MOTION**

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **H Sub for SB 272**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 272**, 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 as House Substitute for Senate Bill No. 272 as amended by House Committee of the Whole, as follows:

On page 1, by striking all in lines 21 through 42;

By striking all on pages 2 through 47 and inserting the following:

“New Section 1. (a) On July 1, 2005, the Kansas health policy authority is hereby established as a state agency within the executive branch of state government.

(b) The Kansas health policy authority shall be composed of nine voting members and seven nonvoting, ex officio members. The nine voting members shall be appointed as follows:

- (1) Three members shall be appointed by the governor;
- (2) two members shall be appointed by the speaker of the house of representatives;
- (3) one member shall be appointed by the minority leader of the house of representatives;

(4) two members shall be appointed by the president of the senate; and

(5) one member shall be appointed by the minority leader of the senate.

(c) The seven nonvoting, ex officio members of the Kansas health policy authority are the director of health of the department of health and environment, secretary of health and environment, secretary of social and rehabilitation services, commissioner of insurance, secretary of administration, secretary of aging, and the executive director of the authority appointed pursuant to section 2, and amendments thereto. The seven nonvoting, ex officio members of the Kansas health policy authority shall act as a resource and support for the voting members of the authority and shall not be entitled to vote or to make or second motions in any meeting of the authority.

(d) The appointment of each voting member of the Kansas health policy authority shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as a voting member of the Kansas health policy authority shall exercise any power, duty or function as a member of the authority until confirmed by the senate. Each member shall hold office for a term of four years, except as provided in subsection (f) for the first members appointed to the Kansas health policy authority, and until a successor is appointed and confirmed. Terms of voting members of the Kansas health policy authority shall expire on March 15.

(e) Voting members of the Kansas health policy authority shall be members of the general public who have knowledge and demonstrated leadership in fields including, but not limited to, health care delivery, health promotion, public health improvement, evidence-based medicine, insurance, information systems, data analysis, health care finance, economics, government, and business. A majority of the voting members of the Kansas health policy authority shall be Kansas residents. No member of the legislature shall be appointed as a voting member of the Kansas health policy authority.

(f) The first voting members of the Kansas health policy authority established by this section shall be appointed on or before August 1, 2005. The terms of office of such members shall be as follows:

- (1) The governor shall appoint one member for a term which shall expire on March 15, 2007, and two members for a term which shall expire on March 15, 2009;

(2) the speaker of the house of representatives shall appoint two members for a term which shall expire on March 15, 2008;

(3) the minority leader of the house of representatives shall appoint one member for a term which shall expire on March 15, 2007;

(4) the president of the senate shall appoint two members for a term which shall expire on March 15, 2008; and

(5) the minority leader of the senate shall appoint one member for a term which shall expire on March 15, 2007.

In addition to such terms, each of the first members appointed shall serve until a successor is appointed and confirmed.

(g) The members of the Kansas health policy authority shall meet and organize annually by electing a voting member as chairperson, except that the governor shall designate the first chairperson of the Kansas health policy authority from among the first voting members appointed. A majority of all voting members shall constitute a quorum for meetings. All actions of the Kansas health policy authority shall be by the affirmative vote of a majority of voting members at any meeting at which a quorum is present. The Kansas health policy authority shall meet at least monthly during the fiscal year ending June 30, 2006, and thereafter not less than once per calendar quarter.

(h) Members of the Kansas health policy authority attending meetings of the authority, or attending a subcommittee meeting thereof authorized by the Kansas health policy authority, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3212, and amendments thereto, for members of the legislature. Members on the Kansas health policy authority shall not receive compensation for their service on the authority.

(i) On July 1, 2013, the Kansas health policy authority is hereby abolished.

New Sec. 2. (a) The Kansas health policy authority shall appoint the executive director of the authority subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. The Kansas health policy authority may appoint a temporary director to serve and to administer and oversee the operations of the authority until such time as an executive director can be appointed and commences employment.

(b) The executive director of the Kansas health policy authority shall be in the unclassified service under the Kansas civil service act and shall serve at the pleasure of the Kansas health policy authority. The executive director of the Kansas health policy authority shall receive a salary fixed by the Kansas health policy authority, subject to approval by the governor.

(c) The executive director shall have the authority to hire and supervise the other personnel of the Kansas health policy authority. Except as provided in section 17, and amendments thereto, and as otherwise provided by this act, all officers and employees of the Kansas health policy authority shall be in the unclassified service under the Kansas civil service act and shall serve at the pleasure of the executive director of the Kansas health policy authority.

New Sec. 3. (a) The Kansas health policy authority is hereby authorized to establish policies and to adopt rules and regulations for the implementation and administration of the powers, duties and functions prescribed for or transferred to the authority as provided by law.

(b) The Kansas health policy authority may enter into contracts as may be necessary to perform the powers, duties and functions of authority and as provided by law. As provided by this act or as otherwise the Kansas health policy authority may enter into contracts with other state agencies or with local governmental entities for the coordination of health services, including care and prevention programs and activities, and public health programs.

(c) The Kansas health policy authority may appoint advisory committees as deemed necessary by the authority. The advisory committees shall consult with and advise the Kansas health policy authority regarding the matters referred thereto by the authority. Members of any advisory committee created under this section attending meetings of such committee or attending a subcommittee meeting thereof authorized by such committee shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto, but shall receive no compensation for services as members of such advisory committee.

New Sec. 4. (a) There is hereby created the joint committee on health policy oversight within the legislative branch of state government. The joint committee shall be composed of 12 members. Six members shall be members of the house of representatives and six members shall be members of the senate. Four of the members who are members of the house of representatives shall be appointed by the speaker of the house of representatives, four members who are senators shall be appointed by the president of the senate, two members who are members of the house of representatives shall be appointed by the minority leader of the house of representatives and two members who are senators shall be appointed by the minority leader of the senate.

(b) All members of the joint committee on health policy oversight shall serve for terms of two years ending on the first day of the regular session of the legislature commencing in the first odd-numbered year after the year of appointment, except that the first members shall be appointed on July 1, 2005, and shall serve for terms ending on the first day of the regular session of the legislature commencing in 2007. If a vacancy occurs in the office of any member of the joint committee on health policy oversight, a successor shall be appointed in the same manner as the original appointment for the remainder of the term.

(c) (1) The chairperson of the joint committee on health policy oversight shall be appointed for a term of one year which ends on the first day of the next occurring regular session of the legislature. The speaker of the house of representatives shall appoint the first chairperson on July 1, 2005, and shall appoint the chairperson for the term commencing on the first day of the regular session of the legislature commencing in 2006 for a one-year term to end on the first day of the regular session of the legislature commencing in the year 2007. The president of the senate shall appoint the next chairperson on the first day of the regular session of the legislature commencing in the year 2007 for a one-year term which ends on the first day of the next occurring regular session of the legislature. Thereafter the appointment of the chairperson shall continue to alternate between the speaker of the house of representatives and the president of the senate with each subsequent chairperson being appointed for a one-year term ending on the first day of the regular session of the legislature in the next occurring regular session of the legislature after the year of appointment.

(2) The vice-chairperson of the joint committee on health policy oversight shall be appointed for a term of one year which ends on the first day of the next occurring regular session of the legislature. The president of the senate shall appoint the first vice-chairperson on July 1, 2005, and shall appoint the vice-chairperson for the term commencing on the first day of the regular session of the legislature commencing in 2006 for a one-year term to end on the first day of the regular session of the legislature commencing in the year 2007. The speaker of the house of representatives shall appoint the next vice-chairperson on the first day of the regular session of the legislature commencing in the year 2007 for a one-year term which ends on the first day of the next occurring regular session of the legislature. Thereafter the appointment of the vice-chairperson shall continue to alternate between the speaker of the house of representatives and the president of the senate with each subsequent vice-chairperson being appointed for a one-year term ending on the first day of the regular session of the legislature in the next occurring regular session of the legislature after the year of appointment.

(3) If a vacancy occurs in the office of the chairperson or vice-chairperson, a member of the joint committee on health policy oversight who is a member of the same house of the legislature as the member who vacated the office shall be appointed by the speaker of the house, if the vacating member was a member of the house of representatives, or by the president of the senate, if the vacating member was a member of the senate, to fill such vacancy.

(d) A quorum of the joint committee on health policy oversight shall be seven. All actions of the joint committee on health policy oversight shall be taken by a majority of all of the members of the joint committee.

(e) The joint committee on health policy oversight shall have the authority to meet at any time and at any place within the state on the call of the chairperson.

(f) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the

joint committee on health policy oversight to the extent that the same do not conflict with the specific provisions of this section applicable to the joint committee.

(g) Members of the joint committee on health policy oversight shall receive compensation, travel expenses and subsistence expenses as provided in K.S.A. 75-3212 and amendments thereto when attending meetings of the joint committee.

(h) The staff of the legislative research department, the office of revisor of statutes and the division of legislative administrative services shall provide such assistance as may be requested by the joint committee on health policy oversight and to the extent authorized by the legislative coordinating council.

(i) The joint committee on health policy oversight shall have the exclusive responsibility to monitor and study the operations and decisions of the Kansas health policy authority.

(j) In accordance with K.S.A. 46-1204 and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee on health policy oversight.

(k) The joint committee on health policy oversight may introduce such legislation as it deems necessary in performing its functions.

(l) The provisions of this section shall expire on July 1, 2013.

New Sec. 5. The Kansas health policy authority shall develop and maintain a coordinated health policy agenda that combines effective purchasing and administration of health care with health promotion oriented public health strategies. The powers, duties and functions of the Kansas health policy authority are intended to be exercised to improve the health of the people of Kansas by increasing the quality, efficiency and effectiveness of health services and public health programs.

New Sec. 6. (a) The Kansas health policy authority is responsible for the development of a statewide health policy agenda including health care and health promotion components. The Kansas health policy authority shall report to the legislature at the beginning of the regular session of the legislature in 2007 and at the beginning of each regular legislative session thereafter. The report of the Kansas health policy authority to the legislature shall include recommendations for implementation of the health policy agenda recommended by the authority. The Kansas health policy authority shall develop or adopt health indicators and shall include baseline and trend data on the health costs and indicators in each annual report to the legislature. In accordance with the provisions of this act and the provisions of appropriation acts, the Kansas health policy authority shall assume powers, duties and functions in accordance with the provisions of this act.

(b) On January 1, 2006, the Kansas health policy authority shall assume the functions of the health care data governing board and the functions of the department of social and rehabilitation services under the Kansas business health partnership act, as provided by this act.

(c) On or before March 1, 2006, the Kansas health policy authority shall submit a plan with recommendations for funding and any recommended legislation for the powers, duties and functions transferred to the authority on July 1, 2006, of the programs and activities specified in subsection (d).

(d) On July 1, 2006, the Kansas health policy authority shall assume operational and purchasing responsibility for (1) the regular medical portion of the state medicaid program, (2) the MediKan program, (3) the state children's health insurance program as provided in K.S.A. 38-2001 et seq., and amendments thereto, (4) the working healthy portion of the ticket to work program under the federal work incentive improvement act and the medicaid infrastructure grants received for the working healthy portion of the ticket to work program, (5) the medicaid management information system (MMIS), (6) the restrictive drug formulary, the drug utilization review program, including oversight of the medicaid drug utilization review board, and the electronic claims management system as provided in K.S.A. 39-7,116 through 39-7,121 and K.S.A. 2004 Supp. 39-7,121a through 39-7,121e, and amendments thereto, (7) the state health care benefits program as provided in K.S.A. 75-6501 through 75-6523, and amendments thereto, and (8) the state workers compensation self-insurance fund and program as provided in K.S.A. 44-575 through 44-580, and amendments thereto.

(e) At the beginning of the regular session of the legislature in 2007, the Kansas health policy authority shall submit to the legislature recommendations and an implementation

plan for the transfer of additional medicaid-funded programs to the Kansas health policy authority which may include (1) mental health services, (2) home and community-based services (HCBS) waiver programs, (3) nursing facilities, (4) substance abuse prevention and treatment programs, and (5) the institutions, as defined in K.S.A. 76-12a01, and amendments thereto.

(f) At the beginning of the regular session of the legislature in 2008, the Kansas health policy authority shall submit to the legislature recommendations and an implementation plan for the Kansas health policy authority to assume responsibility for health care purchasing functions within additional state agencies, which may include (1) the department on aging, (2) the department of education for local education agencies, (3) the juvenile justice authority and the juvenile correctional institutions and facilities thereunder, and (4) the department of corrections and the correctional institutions and facilities thereunder.

New Sec. 7. On July 1, 2005, the division of health policy and finance is hereby established within the department of administration. The head of the division of health policy and finance shall be the director of health policy and finance, who shall be appointed by and serve at the pleasure of the governor. The director of health policy and finance shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the governor. Under the supervision of the governor, the director of health policy and finance shall administer the division of health policy and finance and shall perform such other powers, duties and functions as may be prescribed by law.

New Sec. 8. (a) Subject to the provisions of appropriation acts, the director of health policy and finance shall appoint, in accordance with the provisions of the Kansas civil service act, such officers and employees as may be needed, in the judgment of the director, to carry out the powers and duties of the division of health policy and finance. All such officers and employees shall be within the unclassified service under the Kansas civil service act, unless otherwise specifically provided by law.

(b) The officers and employees of the division of health policy and finance shall act for and exercise the powers of the director of health policy and finance to the extent that authority to do so is delegated by the director. Subject to the limitations of this act, the director of health policy and finance may organize the division of health policy and finance in the manner the director deems most efficient.

New Sec. 9. (a) The director of health policy and finance shall coordinate health care planning, administration, and purchasing and analysis of health data for the state of Kansas with respect to the following health programs administered by the state of Kansas:

(1) Developing, implementing, and administering programs that provide medical assistance, health insurance programs, or waivers granted thereunder for persons who are needy, uninsured, or both, and that are financed by federal funds or state funds, or both, including the following:

(A) The Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto;

(B) the health benefits program for children established under K.S.A. 38-2001 et seq., and amendments thereto, and developed and submitted in accordance with federal guidelines established under title XXI of the federal social security act, section 4901 of public law 105-33, 42 U.S.C. § 1397aa et seq., and amendments thereto;

(C) any program of medical assistance for needy persons financed by state funds only, to the extent appropriations are made for such a program;

(D) the working healthy portion of the ticket to work program under the federal work incentive improvement act and the medicaid infrastructure grants received for the working healthy portion of the ticket to work program; and

(E) the medicaid management information system (MMIS); and

(2) the restrictive drug formulary, the drug utilization review program, including oversight of the medicaid drug utilization review board, and the electronic claims management system as provided in K.S.A. 39-7,116 through 39-7,121 and K.S.A. 2004 Supp. 39-7,121a through 39-7,121e, and amendments thereto; and

(3) administering any other health programs delegated to the director by the governor or by a contract with another state agency.

(b) Except to the extent required by its single state agency role as designated in section 10, and amendments thereto, the division of health policy and finance shall not be responsible for health planning, administration, purchasing and data with respect to the following:

- (1) The mental health reform act, K.S.A. 39-1601 et seq., and amendments thereto;
- (2) the developmental disabilities reform act, K.S.A. 39-1801 et seq., and amendments thereto;
- (3) the mental health program of the state of Kansas as prescribed under K.S.A. 75-3304a, and amendments thereto;
- (4) the addiction and prevention services prescribed under K.S.A. 65-4001 et seq., and amendments thereto; or
- (5) any institution, as defined in K.S.A. 76-12a01, and amendments thereto.

New Sec. 10. (a) The division of health policy and finance shall be designated as the single state agency with responsibility for supervising and administering the state plan for medical assistance under the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto. The director shall develop state plans, as provided under the federal social security act, whereby the state cooperates with the federal government in its program of assisting the states financially in furnishing medical assistance and services to eligible individuals.

(b) The director of health policy and finance shall undertake to cooperate with the federal government on any other federal program providing federal financial assistance and services for medical assistance not inconsistent with this act. The director of health policy and finance is not required to develop a state plan for participation or cooperation in all federal social security act programs relating to medical assistance or other available federal programs that relate to medical assistance.

New Sec. 11. The director of health policy and finance shall have the power, but is not required, to develop a state plan with regard to medical assistance and services in which the federal government does not participate, within the limits of appropriations therefor.

New Sec. 12. (a) Subject to the limitations of subsection (b), the director of health policy and finance may enter into a contract with one or more state agencies or local governmental entities providing for the state agency or local governmental entity to perform services for the division of health policy and finance or delegating to the state agency or local governmental entity the administration of certain functions, services or programs under any of the programs for which the director of health policy and finance or the division of health policy and finance is responsible.

(b) With respect to any plan or program that is subject to or financed in part under the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto, the authority of the director of health policy and finance or the division of health policy and finance to exercise administrative discretion in the administration or supervision of the plan or program and to issue policies and to adopt rules and regulations on plan or program matters shall not be delegated by the director of health policy and finance, other than to officials and employees of the division of health policy and finance. To the extent that the director of health policy and finance enters into a contract with a state agency or local governmental entity under this section, the other state agency or the local governmental entity shall not have the authority to change or disapprove any administrative decision of the director of health policy and finance or the division of health policy and finance or to otherwise substitute its judgment for that of the director of health policy and finance or the division of health policy and finance with respect to the application of policies issued or rules and regulations adopted by the director of health policy and finance for any plan or program that is subject to or financed in part under the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto.

New Sec. 13. (a) The director of health policy and finance shall have the power and duty to establish general policies relating to the health programs under the director as provided in section 9, and amendments thereto, and to adopt rules and regulations therefor.

(b) The director of health policy and finance shall advise the governor and the legislature on all health programs, policies and plans for which the director of health policy and finance or the division of health policy and finance is responsible under this act.



(c) The director of health policy and finance shall establish an adequate system of financial records. The director of health policy and finance shall make periodic reports to the governor and shall make any reports required by federal agencies.

(d) The director of health policy and finance may assist other departments, agencies and institutions of the state and federal government and of other states under interstate agreements, when so requested, by performing services in conformity with the purposes of this act.

(e) All contracts of the division of health policy and finance shall be made in the name of the "director of health policy and finance." In that name, the director may sue and be sued. The grant of authority under this subsection shall not be construed to be a waiver of any rights retained by the state under the 11th amendment to the United States constitution and shall be subject to and shall not supersede the provisions of any appropriation act of this state.

(f) After consulting with any agency that has responsibility under a contract with the division of health policy and finance for administration of any of the programs of the division, the director of health policy and finance shall prepare annually, at the time and in the form directed by the governor, a budget covering the estimated receipts and expenditures of the division of health policy and finance for the coming fiscal year.

(g) The director of health policy and finance shall have authority to make grants of funds for the promotion of health programs in the state of Kansas, subject to the provisions of appropriation acts.

(h) The director of health policy and finance may receive grants, gifts, bequests, money, or aid of any character whatsoever, for purposes consistent with sections 9 through 14, and amendments thereto.

(i) The director of health policy and finance may enter into agreements with other states or the agency designated as the single state agency under the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto, for another state setting out the manner for determining the state of residence in disputed cases and the bearing or sharing of costs associated with those cases.

(j) The director of health policy and finance shall establish such advisory groups as are necessary to assist the division of health policy and finance in carrying out its responsibilities under sections 9 through 14, and amendments thereto, including the following:

(1) A consumer advisory board consisting of representatives of consumers of health care services provided under title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and title XXI of the social security act, 42 U.S.C. § 1397aa et seq., and amendments thereto, and representatives of these consumers' family members; and

(2) a policy coordination board consisting of representatives from those state agencies with which the director enters into a contract under section 12, and amendments thereto, and representatives from any other state agencies, as determined by the director.

(k) The director of health policy and finance shall perform any other duties and services that are necessary to carry out the purposes of sections 9 through 14, and amendments thereto, and that are not inconsistent with state law.

New Sec. 14. On July 1, 2005, except as otherwise provided by this act, all of the following powers, duties and functions of the department of social and rehabilitation services and the secretary of social and rehabilitation services are hereby transferred to and imposed upon the division of health policy and finance within the department of administration and the director of health policy and finance established by section 7, and amendments thereto:

(a) All of the powers, duties and functions of the secretary of social and rehabilitation services under chapter 39 of the Kansas Statutes Annotated, and amendments thereto, that relate to development, implementation and administration of programs that provide medical assistance, health insurance programs or waivers granted thereunder for persons who are needy or uninsured, or both, and that are financed by federal funds or state funds, or both, including the following:

(1) The Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto; and

(2) any program of medical assistance for needy persons financed by state funds only;

(b) all of the powers, duties and functions of the secretary of social and rehabilitation services with respect to the health benefits program for children established under K.S.A. 38-2001 et seq., and amendments thereto, and developed and submitted in accordance with federal guidelines established under title XXI of the federal social security act, section 4901 of public law 105-33, 42 U.S.C. § 1397aa et seq., and amendments thereto;

(c) the working healthy portion of the ticket to work program under the federal work incentive improvement act and the medicaid infrastructure grants received for the working healthy portion of the ticket to work program;

(d) the medicaid management information system (MMIS);

(e) the restrictive drug formulary, the drug utilization review program, including oversight of the medicaid drug utilization review board, and the electronic claims management system as provided in K.S.A. 39-7,116 through 39-7,121 and K.S.A. 2004 Supp. 39-7,121a through 39-7,121e, and amendments thereto; and

(f) all of the powers, duties and functions of the department of social and rehabilitation services and secretary of social and rehabilitation services associated with designation of the department of social and rehabilitation services as the single state agency under title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto. The designation of the department of social and rehabilitation services as the single state agency for medicaid purposes is hereby transferred to the division of health policy and finance.

New Sec. 15. (a) The division of health policy and finance within the department of administration and the director of health policy and finance established by this act shall be the successor in every way to the powers, duties and functions of the department of social and rehabilitation services and secretary of social and rehabilitation services in which the same were vested prior to the effective date of this act and that are transferred pursuant to section 14, and amendments thereto. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the division of health policy and finance or the director of health policy and finance within the department of administration shall be deemed to have the same force and effect as if performed by the department of social and rehabilitation services or secretary of social and rehabilitation services in which such powers, duties and functions were vested prior to July 1, 2005.

(b) From July 1, 2005, through June 30, 2006, whenever the department of social and rehabilitation services or the secretary of social and rehabilitation services, or words of like effect, are referred to or designated by a statute, contract, memorandum of understanding, plan, grant, waiver or other document and such reference is in regard to any of the powers, duties or functions transferred to the division of health policy and finance or the director of health policy and finance pursuant to section 14, and amendments thereto, such reference or designation shall be deemed to apply to the division of health policy and finance or the director of health policy and finance, respectively. The provisions of this subsection shall not apply to references to or designations of the department of social and rehabilitation services or the secretary of social and rehabilitation services, or words of like effect, by the provisions of appropriation acts.

(c) All rules and regulations, orders and directives of the secretary of social and rehabilitation services that relate to the functions transferred by section 14, and amendments thereto, and that are in effect on July 1, 2005, shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the director of health policy and finance until revised, amended, revoked or nullified pursuant to law.

New Sec. 16. (a) The division of health policy and finance within the department of administration shall succeed to all property, property rights, and records that were used for or pertain to the performance of powers, duties and functions transferred to the division pursuant to section 14, and amendments thereto. Any conflict as to the proper disposition of property, personnel or records arising under this act shall be determined by the governor, whose decision shall be final.

(b) The provisions of this section shall not apply to the balances of any funds or accounts thereof appropriated or reappropriated for the department of social and rehabilitation services relating to the powers, duties and functions transferred by section 14, and amendments thereto. All such balances of any funds or accounts thereof shall be transferred by and be subject to the provisions of appropriation acts.

New Sec. 17. (a) (1) All officers and employees of the department of social and rehabilitation services who, immediately prior to the effective date of this act, are engaged in the exercise and performance of the powers, duties and functions transferred to the division of health policy and finance or the director of health policy and finance by section 14, and amendments thereto, are transferred to the department of administration on July 1, 2005, or on a later date or dates determined by the secretary of social and rehabilitation services and the secretary of administration.

(2) All officers and employees of the department of social and rehabilitation services who are determined by the secretary of social and rehabilitation services and the secretary of administration to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by section 14, and amendments thereto, are transferred to the department of administration on July 1, 2005, or on a later date or dates determined by the secretary of social and rehabilitation services and the secretary of administration.

(3) All classified employees transferred under this subsection (a) shall retain their status as classified employees. Thereafter, except as otherwise provided by this act, the secretary of administration may convert vacant classified positions to positions that are not classified as otherwise provided by law. The positions of all officers and employees of the department of administration performing duties and functions under the Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto, that are required under applicable federal law, rules and regulations, and policies to be under a merit-based personnel system, shall be in the classified service under the Kansas civil service act.

(b) Officers and employees of the department of social and rehabilitation services transferred by this act shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this act shall affect the classified status of any transferred person employed by the department of social and rehabilitation services prior to the date of transfer.

New Sec. 18. Liability for accrued compensation or salaries of each officer and employee who is transferred to the department of administration under section 17, and amendments thereto, shall be assumed and paid by the department of administration on July 1, 2005, or on the date of the transfer, whichever is later.

New Sec. 19. (a) On January 1, 2006, except as otherwise provided by this act, all of the powers, duties and functions of the health care data governing board, department of health and environment and the secretary of health and environment that relate to the health care data system under K.S.A. 65-6801, 65-6802, 65-6804, 65-6805, 65-6806, 65-6807 and 65-6809 and K.S.A. 2004 Supp. 65-6803, and amendments thereto, are hereby transferred to and imposed upon the Kansas health policy authority established by section 1, and amendments thereto.

(b) The Kansas health policy authority shall be the successor in every way to such powers, duties and functions of the health care data governing board, department of health and environment and the secretary of health and environment in which the same were vested prior to January 1, 2006, and that are transferred pursuant to this section. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the Kansas health policy authority shall be deemed to have the same force and effect as if performed by the health care data governing board, department of health and environment and the secretary of health and environment in which such powers, duties and functions were vested prior to January 1, 2006.

(c) On or after January 1, 2006, whenever the health care data governing board, department of health and environment or the secretary of health and environment or words of like effect, are referred to or designated by a statute, contract, memorandum of understanding, plan, grant, waiver or other document and such reference is in regard to any of the powers, duties or functions transferred to the Kansas health policy authority pursuant to this section, such reference or designation shall be deemed to apply to the Kansas health

policy authority. The provisions of this subsection shall not apply to references to or designations of the health care data governing board, department of health and environment, or the secretary of health and environment, or words of like effect, by the provisions of appropriation acts.

(d) All rules and regulations, orders and directives of the health care data governing board or the secretary of health and environment that relate to the functions transferred by this section, and that are in effect on January 1, 2006, shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the Kansas health policy authority until revised, amended, revoked or nullified pursuant to law.

(e) The Kansas health policy authority shall succeed to all property, property rights and records that were used for or pertain to the performance of powers, duties and functions transferred to the Kansas health policy authority pursuant to this section. Any conflict as to the proper disposition of property, personnel or records arising under this section shall be determined by the governor, whose decision shall be final. The provisions of this subsection shall not apply to the balances of any funds or accounts thereof appropriated or reappropriated for the department of health and environment relating to the powers, duties and functions transferred by this section. All such balances of any funds or accounts thereof shall be transferred by and be subject to the provisions of appropriation acts.

(f) (1) All officers and employees of the department of health and environment who, immediately prior to January 1, 2006, are engaged in the exercise and performance of the powers, duties and functions transferred to the Kansas health policy authority pursuant to this section, are transferred to the Kansas health policy authority on January 1, 2006, or on a later date or dates determined by the secretary of health and environment and the Kansas health policy authority.

(2) All officers and employees of the department of health and environment who are determined by the secretary of health and environment and the Kansas health policy authority to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by this section are transferred to the Kansas health policy authority on January 1, 2006, or on a later date or dates determined by the secretary of health and environment and the Kansas health policy authority.

(3) All classified employees transferred under this subsection (f) shall retain their status as classified employees. Thereafter, the Kansas health policy authority may convert vacant classified positions to positions that are not classified as otherwise provided by law.

(g) Officers and employees of the department of health and environment transferred pursuant to this section shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this act shall affect the classified status of any transferred person employed by the department of health and environment prior to the date of transfer.

(h) Liability for accrued compensation or salaries of each officer and employee who is transferred to the Kansas health policy authority under this section shall be assumed and paid by the Kansas health policy authority on January 1, 2006, or on the date of the transfer, whichever is later.

New Sec. 20. (a) When any conflict arises as to the disposition of any property, power, duty or function as a result of any abolition or transfer made by or under the authority of this act, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The provisions of this section shall not apply to the balances of any funds or accounts thereof appropriated or reappropriated, or the unexpended balance of any appropriation, for the department of social and rehabilitation services or for the department of health and environment relating to the powers, duties and functions transferred by or under authority of this act. All such balances of any funds or accounts thereof, or the unexpended balance of any appropriation, shall be transferred by and be subject to the provisions of appropriation acts.

New Sec. 21. (a) No suit, action, or other proceeding, judicial or administrative, that is lawfully commenced or that could have been lawfully commenced, by or against any state agency or program mentioned in this act, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action that is commenced or that could have been commenced by the state shall abate by the taking effect of this act.

Sec. 22. On July 1, 2005, K.S.A. 39-7,116 is hereby amended to read as follows: 39-7,116. As used in this act:

(a) "Restrictive drug formulary" means a list of prescription-only drugs established by the department which excludes in whole or in part reimbursement by the department for such drugs under a program administered by the department.

(b) The words and phrases used in this section shall have the same meanings as are ascribed to such words and phrases under K.S.A. 65-1626 and amendments thereto.

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

(d) ~~"Department"~~ means the department of social and rehabilitation services *"Director"* means the director of health policy and finance of the division of health policy and finance established by section 7, and amendments thereto.

Sec. 23. On July 1, 2005, K.S.A. 2004 Supp. 39-7,118 is hereby amended to read as follows: 39-7,118. The ~~secretary of social and rehabilitation services~~ *director of health policy and finance* shall implement a drug utilization review program with the assistance of a medicaid drug utilization review board as provided in K.S.A. 39-7,119 and amendments thereto to assure the appropriate utilization of drugs by patients receiving medical assistance under the medicaid program. The drug utilization review program shall include:

(a) Monitoring of prescription information including overutilization and underutilization of prescription-only drugs;

(b) making periodic reports of findings and recommendations to the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* and the United States department of health and human services regarding the activities of the board, drug utilization review programs, summary of interventions, assessments of education interventions and drug utilization review cost estimates;

(c) providing for prospective and retrospective drug utilization review, as specified in the federal omnibus budget reconciliation act of 1990 (public law 101-508);

(d) monitoring provider and recipient compliance with program objectives;

(e) providing educational information on state program objectives, directly or by contract, to private and public sector health care providers to improve prescribing and dispensing practices;

(f) reviewing the increasing costs of purchasing prescription drugs and making recommendations on cost containment;

(g) reviewing profiles of medicaid beneficiaries who have multiple prescriptions above a level specified by the board; and

(h) recommending any modifications or changes to the medicaid prescription drug program.

Sec. 24. On July 1, 2005, K.S.A. 2004 Supp. 39-7,119 is hereby amended to read as follows: 39-7,119. (a) There is hereby created the medicaid drug utilization review board which shall be responsible for the implementation of retrospective and prospective drug utilization programs under the Kansas medicaid program.

(b) Except as provided in subsection (i), the board shall consist of at least seven members appointed as follows:

(1) Two licensed physicians actively engaged in the practice of medicine, nominated by the Kansas medical society and appointed by the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* from a list of four nominees;

(2) one licensed physician actively engaged in the practice of osteopathic medicine, nominated by the Kansas association of osteopathic medicine and appointed by the ~~secretary~~

~~of social and rehabilitation services~~ *director of health policy and finance* from a list of four nominees;

(3) two licensed pharmacists actively engaged in the practice of pharmacy, nominated by the Kansas pharmacy association and appointed by the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* from a list of four nominees;

(4) one person licensed as a pharmacist and actively engaged in academic pharmacy, appointed by the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* from a list of four nominees provided by the university of Kansas;

(5) one licensed professional nurse actively engaged in long-term care nursing, nominated by the Kansas state nurses association and appointed by the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* from a list of four nominees.

(c) The ~~secretary of social and rehabilitation services~~ *director of health policy and finance* may add two additional members so long as no class of professional representatives exceeds 51% of the membership.

(d) The physician and pharmacist members shall have expertise in the clinically appropriate prescribing and dispensing of outpatient drugs.

(e) The appointments to the board shall be for terms of three years. In making the appointments, the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* shall provide for geographic balance in the representation on the board to the extent possible. Subject to the provisions of subsection (i), members may be reappointed.

(f) The board shall elect a chairperson from among board members who shall serve a one-year term. The chairperson may serve consecutive terms.

(g) The board, in accordance with K.S.A. 75-4319 and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

(h) All actions of the medicaid drug utilization review board shall be upon the affirmative vote of five members of the board and the vote of each member present when action was taken shall be recorded by roll call vote.

(i) Upon the expiration of the term of office of any member of the medicaid drug utilization review board on or after the effective date of this act and in any case of a vacancy existing in the membership position of any member of the medicaid drug utilization review board on or after the effective date of this act, a successor shall be appointed by the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* so that as the terms of members expire, or vacancies occur, members are appointed and the composition of the board is changed in accordance with the following and such appointment shall be made by the ~~secretary~~ *director of health policy and finance* in the following order of priority:

(1) One member shall be a licensed pharmacist who is actively performing or who has experience performing medicaid pharmacy services for a hospital and who is nominated by the Kansas hospital association and appointed by the ~~secretary~~ *director of health policy and finance* from a list of two or more nominees;

(2) one member shall be a licensed pharmacist who is actively performing or who has experience performing medicaid pharmacy services for a licensed adult care home and who is nominated by the state board of pharmacy and appointed by the ~~secretary~~ *director of health policy and finance* from a list of two or more nominees;

(3) one member shall be a licensed physician who is actively engaged in the general practice of allopathic medicine and who has practice experience with the state medicaid plan and who is nominated by the Kansas medical society and appointed by the ~~secretary~~ *director of health policy and finance* from a list of two or more nominees;

(4) one member shall be a licensed physician who is actively engaged in mental health practice providing care and treatment to persons with mental illness, who has practice experience with the state medicaid plan and who is nominated by the Kansas psychiatric society and appointed by the ~~secretary~~ *director of health policy and finance* from a list of two or more nominees;

(5) one member shall be a licensed physician who is the medical director of a nursing facility, who has practice experience with the state medicaid plan and who is nominated by the Kansas medical society and appointed by the ~~secretary~~ *director of health policy and finance* from a list of two or more nominees;

(6) one member shall be a licensed physician who is actively engaged in the general practice of osteopathic medicine, who has practice experience with the state medicaid plan and who is nominated by the Kansas association of osteopathic medicine and who is appointed by the ~~secretary~~ *director of health policy and finance* from a list of two or more nominees;

(7) one member shall be a licensed pharmacist who is actively engaged in retail pharmacy, who has practice experience with the state medicaid plan and who is nominated by the state board of pharmacy and appointed by the ~~secretary~~ *director of health policy and finance* from a list of two or more nominees;

(8) one member shall be a licensed pharmacist who is actively engaged in or who has experience in research pharmacy and who is nominated jointly by the Kansas task force for the pharmaceutical research and manufacturers association and the university of Kansas and appointed by the ~~secretary~~ *director of health policy and finance* from a list of two or more jointly nominated persons; and

(9) one member shall be a licensed advanced registered nurse practitioner or physician assistant actively engaged in the practice of providing the health care and treatment services such person is licensed to perform, who has practice experience with the state medicaid plan and who is nominated jointly by the Kansas state nurses' association and the Kansas academy of physician assistants and appointed by the ~~secretary~~ *director of health policy and finance* from a list of two or more jointly nominated persons.

Sec. 25. On July 1, 2005, K.S.A. 2004 Supp. 39-7,120 is hereby amended to read as follows: 39-7,120. (a) The ~~secretary of social and rehabilitation services~~ *director of health policy and finance* shall not restrict patient access to prescription-only drugs pursuant to a program of prior authorization or a restrictive formulary except by rules and regulations adopted in accordance with K.S.A. 77-415 *et seq.*, and amendments thereto. Prior to the promulgation of any such rules and regulations, the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* shall submit such proposed rules and regulations to the medicaid drug utilization review board for written comment. The ~~secretary of social and rehabilitation services~~ *director of health policy and finance* may not implement permanent prior authorization until 30 days after receipt of comments by the drug utilization review board.

(b) When considering recommendations from the medicaid drug utilization review board regarding the prior authorization of a drug, the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* shall consider the net economic impact of such prior authorization, including, but not limited to, the costs of specific drugs, rebates or discounts pursuant to 42 U.S.C. 1396r-8, dispensing costs, dosing requirements and utilization of other drugs or other medicaid health care services which may be related to the prior authorization of such drug.

Sec. 26. On July 1, 2005, K.S.A. 39-7,121 is hereby amended to read as follows: 39-7,121. (a) ~~On or before July 1, 1996, the department of social and rehabilitation services~~ *The director of health policy and finance* shall establish and implement an electronic pharmacy claims management system in order to provide for the on-line adjudication of claims and for electronic prospective drug utilization review.

(b) The system shall provide for electronic point-of-sale review of drug therapy using predetermined standards to screen for potential drug therapy problems including incorrect drug dosage, adverse drug-drug interactions, drug-disease contraindications, therapeutic duplication, incorrect duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

(c) The ~~department~~ *director of health policy and finance* shall not utilize this system, or any other system or program to require that a recipient has utilized or failed with a drug usage or drug therapy prior to allowing the recipient to receive the product or therapy recommended by the recipient's physician.

Sec. 27. On July 1, 2005, K.S.A. 2004 Supp. 39-7,121a is hereby amended to read as follows: 39-7,121a. (a) The ~~secretary of social and rehabilitation services~~ *director of health policy and finance* may establish an advisory committee pursuant to K.S.A. 75-5313, and amendments thereto, to advise the ~~secretary~~ *director of health policy and finance* in the

development of a preferred formulary listing of covered drugs by the state medicaid program.

(b) The ~~secretary of social and rehabilitation services~~ *director of health policy and finance* shall evaluate drugs and drug classes for inclusion in the state medicaid preferred drug formulary based on safety, effectiveness and clinical outcomes of such treatments. In addition, the ~~secretary~~ *director of health policy and finance* shall evaluate drugs and drug classes to determine whether inclusion of such drugs or drug classes in a starter dose program would be clinically efficacious and cost effective. If the factors of safety, effectiveness and clinical outcomes among drugs being considered in the same class indicate no therapeutic advantage, then the ~~secretary~~ *director of health policy and finance* shall consider the cost effectiveness and the net economic impact of such drugs in making recommendations for inclusion in the state medicaid preferred drug formulary. Drugs which do not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness or clinical outcomes over other drugs in the same class which have been selected for the preferred drug formulary may be excluded from the preferred drug formulary and may be subject to prior authorization in accordance with state and federal law, except, prior to July 1, 2003, where a prescriber has personally written "dispense as written" or "D.A.W.", or has signed the prescriber's name on the "dispense as written" signature line in accordance with K.S.A. 65-1637, and amendments thereto.

(c) The ~~secretary of social and rehabilitation services~~ *director of health policy and finance* shall consider the net economic impact of drugs selected or excluded from the preferred formulary and may gather information on the costs of specific drugs, rebates or discounts pursuant to 42 U.S.C. 1396r-8, dispensing costs, dosing requirements and utilization of other drugs or other medicaid health care services.

(d) The ~~secretary of social and rehabilitation services~~ *director of health policy and finance* may accept all services, including, but not limited to, disease state management, associated with the delivery of pharmacy benefits under the state medicaid program having a determinable cost effect in addition to the medicaid prescription drug rebates required pursuant to 42 U.S.C. section 1396r-8.

(e) The state medicaid preferred drug formulary shall be submitted to the medicaid drug utilization review board for review and policy recommendations.

Sec. 28. On July 1, 2005, K.S.A. 2004 Supp. 39-7,121d is hereby amended to read as follows: 39-7,121d. (a) The state medicaid plan shall include provisions for a program of differential dispensing fees for pharmacies that provide prescriptions for adult care homes under a unit dose system in accordance with rules and regulations of the state board of pharmacy and that participate in the return of unused medications program under the state medicaid plan.

(b) The state medicaid plan shall include provisions for differential ingredient cost reimbursement of generic and brand name pharmaceuticals. The ~~secretary of social and rehabilitation services~~ *director of health policy and finance* shall set the rates for differential cost reimbursement of generic and brand name pharmaceuticals by rules and regulations.

Sec. 29. On July 1, 2005, K.S.A. 2004 Supp. 39-7,121e is hereby amended to read as follows: 39-7,121e. (a) Except where a prescriber has personally written "dispense as written" or "D.A.W.," or has signed the prescriber's name on the "dispense as written" signature line in accordance with K.S.A. 65-1637 and amendments thereto, the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* may limit reimbursement for a prescription under the medicaid program to the multisource generic equivalent drug.

(b) No pharmacist participating in the medical assistance program shall be required to dispense a prescription-only drug that will not be reimbursed by the medical assistance program.

Sec. 30. On January 1, 2006, K.S.A. 65-6801 is hereby amended to read as follows: 65-6801. (a) The legislature recognizes the urgent need to provide health care consumers, third-party payors, providers and health care planners with information regarding the trends in use and cost of health care services in this state for improved decision-making. This is to be accomplished by compiling a uniform set of data and establishing mechanisms through which the data will be disseminated.



(b) It is the intent of the legislature to require that the information necessary for a review and comparison of utilization patterns, cost, quality and quantity of health care services be supplied to the health care database by all providers of health care services and third-party payors to the extent required by K.S.A. 65-6805 and amendments thereto and this section and amendments thereto. ~~The secretary of health and environment at the direction of the health care data governing board~~ *Kansas health policy authority* shall specify by rule and regulation the types of information which shall be submitted and the method of submission.

(c) The information is to be compiled and made available in a form prescribed by the ~~governing board~~ *Kansas health policy authority* to improve the decision-making processes regarding access, identified needs, patterns of medical care, price and use of health care services.

Sec. 31. On January 1, 2006, K.S.A. 2004 Supp. 65-6803 is hereby amended to read as follows: 65-6803. (a) ~~There is hereby created a~~ *On January 1, 2006, the* health care data governing board *is hereby abolished.*

~~(b) The board shall consist of 15 members appointed as follows. One member shall be appointed by the Kansas medical society, one member shall be appointed by the Kansas hospital association, one member shall be appointed by the executive vice chancellor of the university of Kansas school of medicine, one member who is a licensed professional nurse shall be appointed by the Kansas state nurses association, one member representing health care insurers or other commercial payors shall be appointed by the governor, one member representing a large business that is self-insured as to medical coverage for its employees shall be appointed by the governor, one member representing a small business that is self-insured as to medical coverage for its employees shall be appointed by the governor, one member representing adult care homes shall be appointed by the governor, one member representing the Kansas health institute, one member shall be appointed by the state board of regents, one member representing consumers of health care shall be appointed by the governor and one additional member the governor deems appropriate to serve on this board shall be appointed by the governor. The secretary of health and environment, the secretary of social and rehabilitation services and the insurance commissioner, or their designees, shall be voting members of the board. The secretary of health and environment, or the designee of the secretary, shall also serve as chairperson of the board. Board members and task force members shall not be paid compensation, subsistence allowances, mileage or other expenses as otherwise may be authorized by law for attending meetings or subcommittee meetings of the board. The members appointed to the board shall serve for three-year terms or until their successors are appointed and qualified.~~

~~(c) (b)~~ The chairperson of the ~~health care data governing board~~ *Kansas health policy authority* may appoint a task force or task forces of interested citizens and providers of health care for the purpose of studying technical issues relating to the collection of health care data. At least one member of the ~~health care data governing board~~ *Kansas health policy authority* shall be a member of any task force appointed under this subsection.

~~(d) The board shall meet at least quarterly and at such other times deemed necessary by the chairperson.~~

~~(e) (c)~~ The ~~board~~ *Kansas health policy authority* shall develop policy regarding the collection of health care data and procedures for ensuring the confidentiality and security of these data.

Sec. 32. On January 1, 2006, K.S.A. 65-6804 is hereby amended to read as follows: 65-6804. (a) ~~The secretary of health and environment~~ *Kansas health policy authority* shall administer the health care database. In administering the health care database, the ~~secretary authority~~ shall receive health care data from those entities identified in K.S.A. 65-6805 and amendments thereto and provide for the dissemination of such data ~~as directed by the board.~~

(b) ~~As directed by the board, the secretary of health and environment~~ *The Kansas health policy authority* may contract with an organization experienced in health care data collection to collect the data from the health care facilities as described in subsection (h) of K.S.A. 65-425 and amendments thereto, build and maintain the database. The ~~secretary of health and environment~~ *Kansas health policy authority* may accept data submitted by associations or related organizations on behalf of health care providers by entering into binding agreements

negotiated with such associations or related organizations to obtain data required pursuant to this section.

(c) The ~~secretary of health and environment~~ *Kansas health policy authority* shall adopt rules and regulations ~~approved by the board~~ governing the acquisition, compilation and dissemination of all data collected pursuant to this act. The rules and regulations shall provide at a minimum that:

(1) Measures have been taken to provide system security for all data and information acquired under this act;

(2) data will be collected in the most efficient and cost-effective manner for both the department and providers of data;

(3) procedures will be developed to assure the confidentiality of patient records: ~~Patient names, addresses and other personal identifiers will be omitted from the database;~~

(4) users may be charged for data preparation or information that is beyond the routine data disseminated and that the ~~secretary~~ *authority* shall establish by the adoption of such rules and regulations a system of fees for such data preparation or dissemination; and

(5) the ~~secretary of health and environment~~ *Kansas health policy authority* will ensure that the health care database will be kept current, accurate and accessible as prescribed by rules and regulations.

(d) Data and other information collected pursuant to this act ~~shall be confidential, shall be disseminated only for statistical purposes pursuant to rules and regulations adopted by the secretary of health and environment and approved by the board and shall not be disclosed by the Kansas health policy authority or made public in any manner which would identify individuals.~~ A violation of this subsection (d) is a class C misdemeanor.

(e) In addition to such criminal penalty under subsection (d), any individual whose identity is revealed in violation of subsection (d) may bring a civil action against the responsible person or persons for any damages to such individual caused by such violation.

Sec. 33. On January 1, 2006, K.S.A. 65-6805 is hereby amended to read as follows: 65-6805. Each medical care facility as defined by subsection (h) of K.S.A. 65-425 and amendments thereto; health care provider as defined in K.S.A. 40-3401 and amendments thereto; providers of health care as defined in subsection (f) of K.S.A. 65-5001 and amendments thereto; health care personnel as defined in subsection (e) of K.S.A. 65-5001 and amendments thereto; home health agency as defined by subsection (b) of K.S.A. 65-5101 and amendments thereto; psychiatric hospitals licensed under K.S.A. 75-3307b and amendments thereto; state institutions for the mentally retarded; community mental retardation facilities as defined under K.S.A. 65-4412 and amendments thereto; community mental health center as defined under K.S.A. 65-4432 and amendments thereto; adult care homes as defined by K.S.A. 39-923 and amendments thereto; laboratories described in K.S.A. 65-1,107 and amendments thereto; pharmacies; board of nursing; Kansas dental board; board of examiners in optometry; state board of pharmacy; state board of healing arts and third-party payors, including but not limited to, licensed insurers, medical and hospital service corporations, health maintenance organizations, fiscal intermediaries for government-funded programs and self-funded employee health plans, shall file health care data with the ~~secretary of health and environment~~ *Kansas health policy authority* as prescribed by the ~~board authority~~. The provisions of this section shall not apply to any individual, facility or other entity under this section which uses spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination for the treatment or cure of disease.

Sec. 34. On January 1, 2006, K.S.A. 65-6806 is hereby amended to read as follows: 65-6806. The ~~secretary of health and environment~~ *Kansas health policy authority* shall make the data available to interested parties on the basis prescribed by the ~~board authority~~ and as directed by rules and regulations *of the authority*.

Sec. 35. On January 1, 2006, K.S.A. 65-6807 is hereby amended to read as follows: 65-6807. The ~~secretary of health and environment~~ *Kansas health policy authority* shall on or before February 1 each year make a report to the governor and the legislature as to health care data activity, including examples of policy analyses conducted and purposes for which the data was disseminated and utilized, and as to the progress made in compiling and making available the information specified under K.S.A. 65-6801 and amendments thereto.

Sec. 36. On January 1, 2006, K.S.A. 65-6809 is hereby amended to read as follows: 65-6809. (a) There is hereby established in the state treasury the health care database fee fund. The ~~secretary of health and environment~~ *Kansas health policy authority* shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys collected or received by the ~~secretary~~ *authority* from the following sources:

- (1) Fees collected under K.S.A. 65-6804, and amendments thereto;
- (2) moneys received by the ~~secretary~~ *authority* in the form of gifts, donations or grants;
- (3) interest attributable to investment of moneys in the fund; and
- (4) any other moneys provided by law.

Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the health care database fee fund.

(b) Moneys deposited in the health care database fee fund shall be expended to supplement maintenance costs of the database, provide technical assistance and training in the proper use of health care data and provide funding for dissemination of information from the database to the public. ~~If the performance audit required by K.S.A. 65-6808, and amendments thereto, is conducted under contract with a firm, as defined by K.S.A. 46-1112, and amendments thereto, the contract cost of that performance audit may be paid from the health care database fee fund.~~

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the health care database fee fund interest earnings based on:

- (1) The average daily balance of moneys in the health care database fee fund for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the health care database fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~secretary of health and environment~~ *Kansas health policy authority or the authority's designee* for the purposes set forth in this section.

New Sec. 37. (a) On January 1, 2006, except as otherwise provided by this act, all of the powers, duties and functions of the department of social and rehabilitation services and the secretary of social and rehabilitation services under the Kansas business health partnership act, K.S.A. 40-4701 through 40-4707, and amendments thereto, are hereby transferred to and imposed upon the Kansas health policy authority established by section 1, and amendments thereto.

(b) The Kansas health policy authority shall be the successor in every way to such powers, duties and functions of the department of social and rehabilitation services and the secretary of social and rehabilitation services in which the same were vested prior to January 1, 2006, and that are transferred pursuant to this section. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the Kansas health policy authority shall be deemed to have the same force and effect as if performed by the department of social and rehabilitation services and the secretary of social and rehabilitation services in which such powers, duties and functions were vested prior to January 1, 2006.

(c) On or after January 1, 2006, whenever the department of social and rehabilitation services and the secretary of social and rehabilitation services or words of like effect, are referred to or designated by a statute, contract, memorandum of understanding, plan, grant, waiver or other document and such reference is in regard to any of the powers, duties or functions transferred to the Kansas health policy authority pursuant to this section, such reference or designation shall be deemed to apply to the Kansas health policy authority. The provisions of this subsection shall not apply to references to or designations of the department of social and rehabilitation services and the secretary of social and rehabilitation services, or words of like effect, by the provisions of appropriation acts.

(d) All rules and regulations, orders and directives of the secretary of social and rehabilitation services that relate to the functions transferred by this section, and that are in effect on January 1, 2006, shall continue to be effective and shall be deemed to be rules

and regulations, orders and directives of the Kansas health policy authority until revised, amended, revoked or nullified pursuant to law.

(e) The Kansas health policy authority shall succeed to all property, property rights and records that were used for or pertain to the performance of powers, duties and functions transferred to the Kansas health policy authority pursuant to this section. Any conflict as to the proper disposition of property, personnel or records arising under this section shall be determined by the governor, whose decision shall be final. The provisions of this subsection shall not apply to the balances of any funds or accounts thereof appropriated or reappropriated for the department of social and rehabilitation services relating to the powers, duties and functions transferred by this section. All such balances of any funds or accounts thereof shall be transferred by and be subject to the provisions of appropriation acts.

(f) (1) All officers and employees of the department of social and rehabilitation services who, immediately prior to January 1, 2006, are engaged in the exercise and performance of the powers, duties and functions transferred to the Kansas health policy authority pursuant to this section, are transferred to the Kansas health policy authority on January 1, 2006, or on a later date or dates determined by the secretary of social and rehabilitation services and the Kansas health policy authority.

(2) All officers and employees of the department of social and rehabilitation services who are determined by the secretary of social and rehabilitation services and the Kansas health policy authority to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by this section are transferred to the Kansas health policy authority on January 1, 2006, or on a later date or dates determined by the secretary of social and rehabilitation services and the Kansas health policy authority.

(3) All classified employees transferred under this subsection (f) shall retain their status as classified employees. Thereafter, the Kansas health policy authority may convert vacant classified positions to positions that are not classified as otherwise provided by law.

(g) Officers and employees of the department of social and rehabilitation services transferred pursuant to this section shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this act shall affect the classified status of any transferred person employed by the department of social and rehabilitation services prior to the date of transfer.

(h) Liability for accrued compensation or salaries of each officer and employee who is transferred to the Kansas health policy authority under this section shall be assumed and paid by the Kansas health policy authority on January 1, 2006, or on the date of the transfer, whichever is later.

Sec. 38. On January 1, 2006, K.S.A. 2004 Supp. 40-4702 is hereby amended to read as follows: 40-4702. (a) The governor of the state of Kansas shall appoint a committee which shall be known as the Kansas business health policy committee, 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.

(b) The Kansas business health policy committee, hereinafter referred to as the health committee, shall consist of:

- (1) The secretary of the department of commerce or the secretary's designee;
- (2) the secretary of the department of social and rehabilitation services or the secretary's designee;
- (3) the commissioner of insurance or the commissioner's designee;
- (4) one member appointed by the president of the senate;
- (5) one member appointed by the speaker of the house of representatives;
- (6) one member appointed by the minority leader of the senate;
- (7) one member appointed by the minority leader of the house of representatives; and
- (8) three members at large from the private sector appointed by the governor.

The secretary of each state agency represented on this committee shall provide such staff and other resources as the health committee may require.

(c) (1) The initial meeting of the health committee shall be convened within 60 days after the effective date of this act by the governor at a time and place designated by the governor.

(2) Meetings of the health committee subsequent to its initial meeting shall be held and conducted in accordance with policies and procedures established by the health committee.

(3) Commencing at the time of the initial meeting of the health committee, the powers, authorities, duties and responsibilities conferred and imposed upon the health committee by this act shall be operative and effective.

(d) The health committee shall develop and approve a request for proposals for a qualified entity to serve as the Kansas business health partnership, hereinafter referred to as health partnership, which shall provide a mechanism to combine federal and state subsidies with contributions from small employers and eligible employees to purchase health insurance in accordance with guidelines developed by the health committee.

(e) The health committee shall evaluate responses to the request for proposals and select the qualified entity to serve as the health partnership.

(f) The health committee shall:

(1) Develop, approve and revise subsidy eligibility criteria provided that:

(A) Low wage and modest wage employees of small employers shall be eligible for subsidies if:

(i) The small employer has not previously offered health insurance coverage within the two years next preceding the date upon which health insurance is offered; or

(ii) the small employer has previously offered health insurance coverage and a majority of such small employer's employees are low wage or modest wage employees as defined in K.S.A. 40-4701, and amendments thereto;

(B) any small employer's eligible employee with a child who is eligible for coverage under the state childrens' health insurance program established by K.S.A. 38-2001 *et seq.*, and amendments thereto, or in the state medical assistance program shall be eligible automatically for a subsidy and shall be included in the determination of eligibility for the small employer and its low-and-modest wage employees; and

(C) at least 70% of the small employer's eligible employees without group health insurance coverage from another source are insured through the partnership; and

(2) determine and arrange for eligibility determination for subsidies of low wage or modest wage employees; and

(3) develop subsidy schedules based upon eligible employee wage levels and family income; and

(4) be responsible for arranging for the provision of affordable health care coverage for eligible employees of small employers and evaluating and creating the opportunity to improve health care provided by plans in the small group health insurance program.

(g) The health committee shall oversee and monitor the ongoing operation of any subsidy program and the financial accountability of all subsidy funds. If, in the judgment of the health committee, the entity selected to serve as the health partnership fails to perform as intended, the health committee may terminate its selection and designation of that entity as the health partnership and may issue a new request for proposal and select a different qualified entity to serve as the health partnership.

(h) The health committee is hereby authorized to accept funds from the federal government, or its agencies, or any other source whatsoever for research studies, investigation, planning and other purposes related to implementation of the objectives of this act. Any funds so received shall be deposited in the state treasury and shall be credited to a special revenue fund which is hereby created and shall be known as the health committee insurance fund and used in accordance with or direction of the contributing federal agencies. Expenditures from such fund may be made for any purpose in keeping with the responsibilities, functions and authority of the department. Warrants on such fund shall be drawn in the same manner as required of other state agencies upon vouchers signed by the secretary of the department of social and rehabilitation services approved by the Kansas health policy authority, or the authority's designee, upon receiving prior approval of the health committee.

(i) The health committee is authorized to develop policies for the administration of the subsidy program and for the use of additional federal or private funds to subsidize health insurance coverage for low-and-modest wage employees of predominantly low-wage small employers. The health committee shall be responsible for setting benefit levels and establishing performance measures for health plans providing health care coverage for this program that include quality, preventative health and other supplementary measures. The health committee shall limit access to the program subsidy to the projected annualized expenditure.

(j) The health committee is hereby authorized to organize, or cause to be organized, one or more advisory committees. No member of any advisory committee established under this subsection shall have previously received or currently receive any payment or other compensation from the health partnership. The membership of each advisory committee established under this subsection shall contain at least one representative who is a small employer and one representative who is an eligible employee as defined in K.S.A. 40-4701, and amendments thereto, and one representative of the insurance industry.

(k) The health committee shall report on an annual basis on the following subjects:

- (1) Quality assurance measures;
- (2) disease prevention activities;
- (3) disease management activities; and
- (4) other activities or programs the committee decides to include.

Sec. 39. On January 1, 2006, K.S.A. 2004 Supp. 40-4706 is hereby amended to read as follows: 40-4706. ~~The department of social and rehabilitation services~~ *Kansas health policy authority* shall investigate and pursue all possible policy options to bring into this partnership title XIX and the title XXI eligible families of any eligible employees employed by a small employer. ~~Further, the department of social and rehabilitation services~~ *On and after July 1, 2006, the Kansas health policy authority* shall develop and seek federal approval of any appropriate variance or state plan amendment for the state children's health insurance program established by K.S.A. 38-2001 *et seq.*, and amendments thereto, and the state medical assistance program required to accomplish the purposes of this act. ~~The department of social and rehabilitation services office of medical policy and medicare~~ *On and after July 1, 2006, the Kansas health policy authority* shall work with the health partnership to develop a single employee application that may be used by the health plan and the medicaid and state children's health insurance program to determine eligibility.

New Sec. 40. On July 1, 2006, the division of health policy and finance and the office of the director of health policy and finance established within the department of administration by section 7, and amendments thereto, are hereby abolished.

Sec. 41. On July 1, 2006, section 9 of this act is hereby amended to read as follows: Sec. 9. (a) *On and after July 1, 2006, the director of health policy and finance Kansas health policy authority* shall coordinate health care planning, administration, and purchasing and analysis of health data for the state of Kansas with respect to the following health programs administered by the state of Kansas:

(1) Developing, implementing, and administering programs that provide medical assistance, health insurance programs, or waivers granted thereunder for persons who are needy, uninsured, or both, and that are financed by federal funds or state funds, or both, including the following:

(A) The Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 *et seq.*, and amendments thereto;

(B) the health benefits program for children established under K.S.A. 38-2001 *et seq.*, and amendments thereto, and developed and submitted in accordance with federal guidelines established under title XXI of the federal social security act, section 4901 of public law 105-33, 42 U.S.C. § 1397aa *et seq.*, and amendments thereto;

(C) any program of medical assistance for needy persons financed by state funds only, to the extent appropriations are made for such a program;

(D) the working healthy portion of the ticket to work program under the federal work incentive improvement act and the medicaid infrastructure grants received for the working healthy portion of the ticket to work program; and

(E) the medicaid management information system (MMIS); and

(2) the restrictive drug formulary, the drug utilization review program, including oversight of the medicaid drug utilization review board, and the electronic claims management system as provided in K.S.A. 39-7,116 through 39-7,121 and K.S.A. 2004 Supp. 39-7,121a through 39-7,121e, and amendments thereto; and

(3) administering any other health programs delegated to the ~~director~~ *Kansas health policy authority* by the governor or by a contract with another state agency.

(b) Except to the extent required by its single state agency role as designated in section 10, and amendments thereto, *or as otherwise provided pursuant to this act* the ~~division of health policy and finance~~ *Kansas health policy authority* shall not be responsible for health care planning, administration, purchasing and data with respect to the following:

(1) The mental health reform act, K.S.A. 39-1601 et seq., and amendments thereto;

(2) the developmental disabilities reform act, K.S.A. 39-1801 et seq., and amendments thereto;

(3) the mental health program of the state of Kansas as prescribed under K.S.A. 75-3304a, and amendments thereto;

(4) the addiction and prevention services prescribed under K.S.A. 65-4001 et seq., and amendments thereto; or

(5) any institution, as defined in K.S.A. 76-12a01, and amendments thereto.

Sec. 42. On July 1, 2006, section 10 of this act is hereby amended to read as follows:

Sec. 10. (a) *On and after July 1, 2006*, the ~~division of health policy and finance~~ *Kansas health policy authority* shall be designated as the single state agency with responsibility for supervising and administering the state plan for medical assistance under the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto. The ~~director~~ *Kansas health policy authority* shall develop state plans, as provided under the federal social security act, whereby the state cooperates with the federal government in its program of assisting the states financially in furnishing medical assistance and services to eligible individuals.

(b) The ~~director of health policy and finance~~ *Kansas health policy authority* shall undertake to cooperate with the federal government on any other federal program providing federal financial assistance and services for medical assistance not inconsistent with this act. The ~~director of health policy and finance~~ *Kansas health policy authority* is not required to develop a state plan for participation or cooperation in all federal social security act programs relating to medical assistance or other available federal programs that relate to medical assistance.

Sec. 43. On July 1, 2006, section 11 of this act is hereby amended to read as follows:

Sec. 11. *On and after July 1, 2006*, the ~~director of health policy and finance~~ *Kansas health policy authority* shall have the power, but is not required, to develop a state plan with regard to medical assistance and services in which the federal government does not participate, within the limits of appropriations therefor.

Sec. 44. On July 1, 2006, section 12 of this act is hereby amended to read as follows:

Sec. 12. (a) Subject to the limitations of subsection (b), the ~~director of health policy and finance~~ *Kansas health policy authority* may enter into a contract with one or more state agencies or local governmental entities providing for the state agency or local governmental entity to perform services for the division of health policy and finance or delegating to the state agency or local governmental entity the administration of certain functions, services or programs under any of the programs for which the ~~director of health policy and finance~~ *or the division of health policy and finance* *Kansas health policy authority* is responsible.

(b) With respect to any plan or program that is subject to or financed in part under the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto, the authority of the ~~director of health policy and finance~~ *or the division of health policy and finance* *Kansas health policy authority* to exercise administrative discretion in the administration or supervision of the plan or program and to issue policies and to adopt rules and regulations on plan or program matters shall not be delegated by the ~~director of health policy and finance~~ *Kansas health policy authority*, other than to officials and employees of the ~~division of health policy and finance~~ *authority*. To the extent that the ~~director of health policy and finance~~ *Kansas health policy authority* enters into a contract with a state agency or local governmental entity under this section, the other state agency or the local governmental entity shall not have the authority to change or disapprove any administrative decision of

the ~~director of health policy and finance or the division of health policy and finance~~ *Kansas health policy authority* or to otherwise substitute its judgment for that of the ~~director of health policy and finance or the division of health policy and finance~~ *Kansas health policy authority* with respect to the application of policies issued or rules and regulations adopted by the ~~director of health policy and finance~~ *Kansas health policy authority* for any plan or program that is subject to or financed in part under the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto.

Sec. 45. On July 1, 2006, section 13 of this act is hereby amended to read as follows: Sec. 13. (a) *On and after July 1, 2006*, the ~~director of health policy and finance~~ *Kansas health policy authority* shall have the power and duty to establish general policies relating to the health programs under the ~~director~~ *authority* as provided in section 9, and amendments thereto, and to adopt rules and regulations therefor.

(b) The ~~director of health policy and finance~~ *Kansas health policy authority* shall advise the governor and the legislature on all health programs, policies and plans for which the ~~director of health policy and finance or the division of health policy and finance~~ *Kansas health policy authority* is responsible under this act.

(c) The ~~director of health policy and finance~~ *Kansas health policy authority* shall establish an adequate system of financial records. The ~~director of health policy and finance~~ *Kansas health policy authority* shall make periodic reports to the governor and shall make any reports required by federal agencies.

(d) The ~~director of health policy and finance~~ *Kansas health policy authority* may assist other departments, agencies and institutions of the state and federal government and of other states under interstate agreements, when so requested, by performing services in conformity with the purposes of this act.

(e) All contracts of the ~~division of health policy and finance~~ *Kansas health policy authority* shall be made in the name of the “~~director of health policy and finance~~ *Kansas health policy authority*.” In that name, the ~~director~~ *Kansas health policy authority* may sue and be sued. The grant of authority under this subsection shall not be construed to be a waiver of any rights retained by the state under the 11th amendment to the United States constitution and shall be subject to and shall not supersede the provisions of any appropriation act of this state.

(f) After consulting with any agency that has responsibility under a contract with the ~~division of health policy and finance~~ *Kansas health policy authority* for administration of any of the programs of the ~~division~~ *authority*, the ~~director of health policy and finance~~ *Kansas health policy authority* shall prepare annually, at the time and in the form directed by the governor, a budget covering the estimated receipts and expenditures of the ~~division of health policy and finance~~ *Kansas health policy authority* for the coming fiscal year.

(g) The ~~director of health policy and finance~~ *Kansas health policy authority* shall have authority to make grants of funds for the promotion of health programs in the state of Kansas, subject to the provisions of appropriation acts.

(h) The ~~director of health policy and finance~~ *Kansas health policy authority* may receive grants, gifts, bequests, money, or aid of any character whatsoever, for purposes consistent with sections 9 through 14, and amendments thereto.

(i) The ~~director of health policy and finance~~ *Kansas health policy authority* may enter into agreements with other states or the agency designated as the single state agency under the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto, for another state setting out the manner for determining the state of residence in disputed cases and the bearing or sharing of costs associated with those cases.

(j) The ~~director of health policy and finance~~ *Kansas health policy authority* shall establish such advisory groups as are necessary to assist the division of health policy and finance in carrying out its responsibilities under sections 9 through 14, and amendments thereto, including the following:

(1) A consumer advisory board consisting of representatives of consumers of health care services provided under title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and title XXI of the social security act, 42 U.S.C. § 1397aa et seq., and amendments thereto, and representatives of these consumers' family members; and



(2) a policy coordination board consisting of representatives from those state agencies with which the ~~director~~ *Kansas health policy authority* enters into a contract under section 12, and amendments thereto, and representatives from any other state agencies, as determined by the ~~director~~ *Kansas health policy authority*.

(k) The ~~director of health policy and finance~~ *Kansas health policy authority* shall perform any other duties and services that are necessary to carry out the purposes of sections 9 through 14, and amendments thereto, and that are not inconsistent with state law.

Sec. 46. On July 1, 2006, section 14 of this act is hereby amended to read as follows: Sec. 14. On *and after* July 1, ~~2005~~ *2006*, except as otherwise provided by this act, all of the following powers, duties and functions of the ~~department of social and rehabilitation services and the secretary of social and rehabilitation services~~ *division of health policy and finance within the department of administration and the director of health policy and finance* are hereby transferred to and imposed upon the ~~division of health policy and finance within the department of administration and the director of health policy and finance~~ *Kansas health policy authority* established by ~~this act section 1, and amendments thereto~~:

(a) All of the powers, duties and functions of the ~~secretary of social and rehabilitation services~~ under chapter 39 of the Kansas Statutes Annotated, and amendments thereto, ~~that were transferred on July 1, 2005, to the division of health planning and finance and the director of health planning and finance~~ and that relate to development, implementation and administration of programs that provide medical assistance, health insurance programs or waivers granted thereunder for persons who are needy or uninsured, or both, and that are financed by federal funds or state funds, or both, including the following:

(1) The Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto; and

(2) any program of medical assistance for needy persons financed by state funds only;

(b) all of the powers, duties and functions of the ~~secretary of social and rehabilitation services that were transferred on July 1, 2005, to the division of health planning and finance and the director of health planning and finance~~ with respect to the health benefits program for children established under K.S.A. 38-2001 et seq., and amendments thereto, and developed and submitted in accordance with federal guidelines established under title XXI of the federal social security act, section 4901 of public law 105-33, 42 U.S.C. § 1397aa et seq., and amendments thereto;

(c) the working healthy portion of the ticket to work program under the federal work incentive improvement act and the medicaid infrastructure grants received for the working healthy portion of the ticket to work program;

(d) the medicaid management information system (MMIS);

(e) the restrictive drug formulary, the drug utilization review program, including oversight of the medicaid drug utilization review board, and the electronic claims management system as provided in K.S.A. 39-7,116 through 39-7,121 and K.S.A. 2004 Supp. 39-7,121a through 39-7,121e, and amendments thereto; and

(f) all of the powers, duties and functions of the ~~department of social and rehabilitation services and secretary of social and rehabilitation services~~ associated with designation of the ~~department of social and rehabilitation services~~ as the single state agency under title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto. *On and after July 1, 2006*, the designation of the ~~department of social and rehabilitation services~~ *division of health and finance* as the single state agency for medicaid purposes is hereby transferred to the ~~division of health policy and finance~~ *Kansas health policy authority*.

Sec. 47. On July 1, 2006, section 15 of this act is hereby amended to read as follows: Sec. 15. (a) *On and after July 1, 2006*, the ~~division of health policy and finance within the department of administration and the director of health policy and finance~~ established by ~~this act~~ *Kansas health policy authority* shall be the successor in every way to the powers, duties and functions of the ~~department of social and rehabilitation services and secretary of social and rehabilitation services~~ *division of health policy and finance and the director of health policy and finance* in which the same were vested prior to the effective date of ~~this act~~ *July 1, 2006*, and that are transferred pursuant to section 14, and amendments thereto. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the ~~division of health policy and finance or the director of health~~

policy and finance within the department of administration *Kansas health policy authority* shall be deemed to have the same force and effect as if performed by the ~~department of social and rehabilitation services or secretary of social and rehabilitation services~~ *division of health policy and finance and the director of health policy and finance* in which such powers, duties and functions were vested prior to July 1, ~~2005~~ 2006.

(b) ~~From July 1, 2005, through June 30~~ *On and after July 1, 2006*, whenever the ~~department of social and rehabilitation services or the secretary of social and rehabilitation services~~ *division of health policy and finance within the department of administration or the director of health policy and finance*, or words of like effect, are referred to or designated by a statute, contract, memorandum of understanding, plan, grant, waiver or other document and such reference is in regard to any of the powers, duties or functions transferred to the ~~division of health policy and finance or the director of health policy and finance~~ *division of health policy and finance* ~~or the director of health policy and finance, respectively~~ *Kansas health policy authority* pursuant to section 14, and amendments thereto, such reference or designation shall be deemed to apply to the ~~division of health policy and finance or the director of health policy and finance, respectively~~ *Kansas health policy authority*. The provisions of this subsection shall not apply to references to or designations of the ~~department of social and rehabilitation services or the secretary of social and rehabilitation services~~ *division of health policy and finance within the department of administration or the director of health policy and finance*, or words of like effect, by the provisions of appropriation acts.

(c) All rules and regulations, orders and directives of the ~~secretary of social and rehabilitation services~~ *director of health policy and finance* that relate to the functions transferred by section 14, and amendments thereto, and that are in effect on July 1, ~~2005~~ 2006, shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the ~~director of health policy and finance~~ *Kansas health policy authority* until revised, amended, revoked or nullified pursuant to law.

Sec. 48. On July 1, 2006, section 16 of this act is hereby amended to read as follows: Sec. 16. (a) *On July 1, 2006*, the ~~division of health policy and finance within the department of administration~~ *Kansas health policy authority* shall succeed to all property, property rights, and records that were used for or pertain to the performance of powers, duties and functions transferred to the ~~division~~ *Kansas health policy authority* pursuant to section 14, and amendments thereto. Any conflict as to the proper disposition of property, personnel or records arising under this act shall be determined by the governor, whose decision shall be final.

(b) The provisions of this section shall not apply to the balances of any funds or accounts thereof appropriated or reappropriated for the department of ~~social and rehabilitation services~~ *administration* relating to the powers, duties and functions transferred by section 14, and amendments thereto. All such balances of any funds or accounts thereof shall be transferred by and be subject to the provisions of appropriation acts.

Sec. 49. On July 1, 2006, section 17 of this act is hereby amended to read as follows: Sec. 17. (a) (1) All officers and employees of the ~~department of social and rehabilitation services~~ *division of health policy and finance within the department of administration* who, immediately prior to ~~the effective date of this act~~ *July 1, 2006*, are engaged in the exercise and performance of the powers, duties and functions transferred to the ~~division of health policy and finance or the director of health policy and finance~~ *Kansas health policy authority* by section 14, and amendments thereto, are transferred to the ~~department of administration~~ *Kansas health policy authority* on July 1, ~~2005~~ 2006, or on a later date or dates determined by the ~~secretary of social and rehabilitation services~~ *Kansas health policy authority* and the secretary of administration.

(2) All officers and employees of the department of ~~social and rehabilitation services~~ *administration* who are determined by the ~~secretary of social and rehabilitation services~~ *Kansas health policy authority* and the secretary of administration to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by section 14, and amendments thereto, are transferred to the ~~department of administration~~ *Kansas health policy authority* on July 1, ~~2005~~ 2006, or on a later date or dates determined by the ~~secretary of social and rehabilitation services~~ *Kansas health policy authority* and the secretary of administration.

(3) All classified employees transferred under this subsection (a) shall retain their status as classified employees. Thereafter, except as otherwise provided by this act, the ~~secretary of administration~~ *Kansas health policy authority* may convert vacant classified positions to positions that are not classified as otherwise provided by law. The positions of all officers and employees of the ~~department of administration~~ *Kansas health policy authority* performing duties and functions under the Kansas program of medical assistance established in accordance with title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto, that are required under applicable federal law, rules and regulations, and policies to be under a merit-based personnel system, shall be in the classified service under the Kansas civil service act.

(b) Officers and employees of the department of ~~social and rehabilitation services administration~~ transferred by this ~~act~~ *section* shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this act shall affect the classified status of any transferred person employed by the department of ~~social and rehabilitation services administration~~ prior to the date of transfer.

Sec. 50. On July 1, 2006, section 18 of this act is hereby amended to read as follows: Sec. 18. Liability for accrued compensation or salaries of each officer and employee who is transferred to the *Kansas health policy authority* from the department of administration under section 17, and amendments thereto, shall be assumed and paid by the ~~department of administration~~ *Kansas health policy authority* on July 1, ~~2005~~ *2006*, or on the date of the transfer, whichever is later.

Sec. 51. On July 1, 2006, K.S.A. 39-7,116, as amended by section 22 of this act, is hereby amended to read as follows: 39-7,116. As used in this act:

(a) "Restrictive drug formulary" means a list of prescription-only drugs established by the department which excludes in whole or in part reimbursement by the department for such drugs under a program administered by the department.

(b) The words and phrases used in this section shall have the same meanings as are ascribed to such words and phrases under K.S.A. 65-1626 and amendments thereto.

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

(d) ~~"Director"~~ *"Authority"* means the ~~director of health policy and finance of the division of health policy and finance~~ *Kansas health policy authority* established by ~~section 7~~ *section 1*, and amendments thereto.

Sec. 52. On July 1, 2006, K.S.A. 2004 Supp. 39-7,118, as amended by section 23 of this act, is hereby amended to read as follows: 39-7,118. The ~~director of health policy and finance~~ *Kansas health policy authority* shall implement a drug utilization review program with the assistance of a medicaid drug utilization review board as provided in K.S.A. 39-7,119 and amendments thereto to assure the appropriate utilization of drugs by patients receiving medical assistance under the medicaid program. The drug utilization review program shall include:

(a) Monitoring of prescription information including overutilization and underutilization of prescription-only drugs;

(b) making periodic reports of findings and recommendations to the ~~director of health policy and finance~~ *Kansas health policy authority* and the United States department of health and human services regarding the activities of the board, drug utilization review programs, summary of interventions, assessments of education interventions and drug utilization review cost estimates;

(c) providing for prospective and retrospective drug utilization review, as specified in the federal omnibus budget reconciliation act of 1990 (public law 101-508);

(d) monitoring provider and recipient compliance with program objectives;

(e) providing educational information on state program objectives, directly or by contract, to private and public sector health care providers to improve prescribing and dispensing practices;

- (f) reviewing the increasing costs of purchasing prescription drugs and making recommendations on cost containment;
- (g) reviewing profiles of medicaid beneficiaries who have multiple prescriptions above a level specified by the board; and
- (h) recommending any modifications or changes to the medicaid prescription drug program.

Sec. 53. On July 1, 2006, K.S.A. 2004 Supp. 39-7,119, as amended by section 24 of this act, is hereby amended to read as follows: 39-7,119. (a) There is hereby created the medicaid drug utilization review board which shall be responsible for the implementation of retrospective and prospective drug utilization programs under the Kansas medicaid program.

(b) Except as provided in subsection (i), the board shall consist of at least seven members appointed as follows:

(1) Two licensed physicians actively engaged in the practice of medicine, nominated by the Kansas medical society and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of four nominees;

(2) one licensed physician actively engaged in the practice of osteopathic medicine, nominated by the Kansas association of osteopathic medicine and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of four nominees;

(3) two licensed pharmacists actively engaged in the practice of pharmacy, nominated by the Kansas pharmacy association and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of four nominees;

(4) one person licensed as a pharmacist and actively engaged in academic pharmacy, appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of four nominees provided by the university of Kansas;

(5) one licensed professional nurse actively engaged in long-term care nursing, nominated by the Kansas state nurses association and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of four nominees.

(c) The ~~director of health policy and finance~~ *Kansas health policy authority* may add two additional members so long as no class of professional representatives exceeds 51% of the membership.

(d) The physician and pharmacist members shall have expertise in the clinically appropriate prescribing and dispensing of outpatient drugs.

(e) The appointments to the board shall be for terms of three years. In making the appointments, the ~~director of health policy and finance~~ *Kansas health policy authority* shall provide for geographic balance in the representation on the board to the extent possible. Subject to the provisions of subsection (i), members may be reappointed.

(f) The board shall elect a chairperson from among board members who shall serve a one-year term. The chairperson may serve consecutive terms.

(g) The board, in accordance with K.S.A. 75-4319 and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

(h) All actions of the medicaid drug utilization review board shall be upon the affirmative vote of five members of the board and the vote of each member present when action was taken shall be recorded by roll call vote.

(i) Upon the expiration of the term of office of any member of the medicaid drug utilization review board on or after the effective date of this act and in any case of a vacancy existing in the membership position of any member of the medicaid drug utilization review board on or after the effective date of this act, a successor shall be appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* so that as the terms of members expire, or vacancies occur, members are appointed and the composition of the board is changed in accordance with the following and such appointment shall be made by the ~~director of health policy and finance~~ *Kansas health policy authority* in the following order of priority:

(1) One member shall be a licensed pharmacist who is actively performing or who has experience performing medicaid pharmacy services for a hospital and who is nominated by the Kansas hospital association and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of two or more nominees;

(2) one member shall be a licensed pharmacist who is actively performing or who has experience performing medicaid pharmacy services for a licensed adult care home and who is nominated by the state board of pharmacy and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of two or more nominees;

(3) one member shall be a licensed physician who is actively engaged in the general practice of allopathic medicine and who has practice experience with the state medicaid plan and who is nominated by the Kansas medical society and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of two or more nominees;

(4) one member shall be a licensed physician who is actively engaged in mental health practice providing care and treatment to persons with mental illness, who has practice experience with the state medicaid plan and who is nominated by the Kansas psychiatric society and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of two or more nominees;

(5) one member shall be a licensed physician who is the medical director of a nursing facility, who has practice experience with the state medicaid plan and who is nominated by the Kansas medical society and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of two or more nominees;

(6) one member shall be a licensed physician who is actively engaged in the general practice of osteopathic medicine, who has practice experience with the state medicaid plan and who is nominated by the Kansas association of osteopathic medicine and who is appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of two or more nominees;

(7) one member shall be a licensed pharmacist who is actively engaged in retail pharmacy, who has practice experience with the state medicaid plan and who is nominated by the state board of pharmacy and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of two or more nominees;

(8) one member shall be a licensed pharmacist who is actively engaged in or who has experience in research pharmacy and who is nominated jointly by the Kansas task force for the pharmaceutical research and manufacturers association and the university of Kansas and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of two or more jointly nominated persons; and

(9) one member shall be a licensed advanced registered nurse practitioner or physician assistant actively engaged in the practice of providing the health care and treatment services such person is licensed to perform, who has practice experience with the state medicaid plan and who is nominated jointly by the Kansas state nurses' association and the Kansas academy of physician assistants and appointed by the ~~director of health policy and finance~~ *Kansas health policy authority* from a list of two or more jointly nominated persons.

Sec. 54. On July 1, 2006, K.S.A. 2004 Supp. 39-7,120, as amended by section 25 of this act, is hereby amended to read as follows: 39-7,120. (a) The ~~director of health policy and finance~~ *Kansas health policy authority* shall not restrict patient access to prescription-only drugs pursuant to a program of prior authorization or a restrictive formulary except by rules and regulations adopted in accordance with K.S.A. 77-415 *et seq.*, and amendments thereto. Prior to the promulgation of any such rules and regulations, the ~~director of health policy and finance~~ *Kansas health policy authority* shall submit such proposed rules and regulations to the medicaid drug utilization review board for written comment. The ~~director health policy and finance~~ *Kansas health policy authority* may not implement permanent prior authorization until 30 days after receipt of comments by the drug utilization review board.

(b) When considering recommendations from the medicaid drug utilization review board regarding the prior authorization of a drug, the ~~director of health policy and finance~~ *Kansas health policy authority* shall consider the net economic impact of such prior authorization, including, but not limited to, the costs of specific drugs, rebates or discounts pursuant to 42 U.S.C. 1396r-8, dispensing costs, dosing requirements and utilization of other drugs or other medicaid health care services which may be related to the prior authorization of such drug.

Sec. 55. On July 1, 2006, K.S.A. 39-7,121, as amended by section 26 of this act, is hereby amended to read as follows: 39-7,121. (a) The ~~director of health policy and finance~~ *Kansas health policy authority* shall establish and implement an electronic pharmacy claims

management system in order to provide for the on-line adjudication of claims and for electronic prospective drug utilization review.

(b) The system shall provide for electronic point-of-sale review of drug therapy using predetermined standards to screen for potential drug therapy problems including incorrect drug dosage, adverse drug-drug interactions, drug-disease contraindications, therapeutic duplication, incorrect duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

(c) ~~The director of health policy and finance~~ *Kansas health policy authority* shall not utilize this system, or any other system or program to require that a recipient has utilized or failed with a drug usage or drug therapy prior to allowing the recipient to receive the product or therapy recommended by the recipient's physician.

Sec. 56. On July 1, 2006, K.S.A. 2004 Supp. 39-7,121a, as amended by section 27 of this act, is hereby amended to read as follows: 39-7,121a. (a) ~~The director of health policy and finance~~ *Kansas health policy authority* may establish an advisory committee pursuant to K.S.A. 75-5313, and amendments thereto, to advise the ~~director of health policy and finance~~ *Kansas health policy authority* in the development of a preferred formulary listing of covered drugs by the state medicaid program.

(b) ~~The director of health policy and finance~~ *Kansas health policy authority* shall evaluate drugs and drug classes for inclusion in the state medicaid preferred drug formulary based on safety, effectiveness and clinical outcomes of such treatments. In addition, the ~~director of health policy and finance~~ *Kansas health policy authority* shall evaluate drugs and drug classes to determine whether inclusion of such drugs or drug classes in a starter dose program would be clinically efficacious and cost effective. If the factors of safety, effectiveness and clinical outcomes among drugs being considered in the same class indicate no therapeutic advantage, then the ~~director of health policy and finance~~ *Kansas health policy authority* shall consider the cost effectiveness and the net economic impact of such drugs in making recommendations for inclusion in the state medicaid preferred drug formulary. Drugs which do not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness or clinical outcomes over other drugs in the same class which have been selected for the preferred drug formulary may be excluded from the preferred drug formulary and may be subject to prior authorization in accordance with state and federal law, except, prior to July 1, 2003, where a prescriber has personally written "dispense as written" or "D.A.W.", or has signed the prescriber's name on the "dispense as written" signature line in accordance with K.S.A. 65-1637, and amendments thereto.

(c) ~~The director of health policy and finance~~ *Kansas health policy authority* shall consider the net economic impact of drugs selected or excluded from the preferred formulary and may gather information on the costs of specific drugs, rebates or discounts pursuant to 42 U.S.C. 1396r-8, dispensing costs, dosing requirements and utilization of other drugs or other medicaid health care services.

(d) ~~The director of health policy and finance~~ *Kansas health policy authority* may accept all services, including, but not limited to, disease state management, associated with the delivery of pharmacy benefits under the state medicaid program having a determinable cost effect in addition to the medicaid prescription drug rebates required pursuant to 42 U.S.C. section 1396r-8.

(e) The state medicaid preferred drug formulary shall be submitted to the medicaid drug utilization review board for review and policy recommendations.

Sec. 57. On July 1, 2006, K.S.A. 2004 Supp. 39-7,121d, as amended by section 28 of this act, is hereby amended to read as follows: 39-7,121d. (a) The state medicaid plan shall include provisions for a program of differential dispensing fees for pharmacies that provide prescriptions for adult care homes under a unit dose system in accordance with rules and regulations of the state board of pharmacy and that participate in the return of unused medications program under the state medicaid plan.

(b) The state medicaid plan shall include provisions for differential ingredient cost reimbursement of generic and brand name pharmaceuticals. ~~The director of health policy and finance~~ *Kansas health policy authority* shall set the rates for differential cost reimbursement of generic and brand name pharmaceuticals by rules and regulations.

Sec. 58. On July 1, 2006, K.S.A. 2004 Supp. 39-7,121e, as amended by section 29 of this act, is hereby amended to read as follows: 39-7,121e. (a) Except where a prescriber has personally written “dispense as written” or “D.A.W.,” or has signed the prescriber’s name on the “dispense as written” signature line in accordance with K.S.A. 65-1637 and amendments thereto, the ~~director of health policy and finance~~ *Kansas health policy authority* may limit reimbursement for a prescription under the medicaid program to the multisource generic equivalent drug.

(b) No pharmacist participating in the medical assistance program shall be required to dispense a prescription-only drug that will not be reimbursed by the medical assistance program.

Sec. 59. On July 1, 2005, K.S.A. 39-7,116 and 39-7,121 and K.S.A. 2004 Supp. 39-7,118, 39-7,119, 39-7,120, 39-7,121a, 39-7,121d and 39-7,121e are hereby repealed.

Sec. 60. On January 1, 2006, K.S.A. 65-6801, 65-6804, 65-6805, 65-6806, 65-6807, 65-6808 and 65-6809 and K.S.A. 2004 Supp. 40-4702, 40-4706 and 65-6803 are hereby repealed.

Sec. 61. On July 1, 2006, sections 7 through 18 of this act and K.S.A. 39-7,116, as amended by section 22 of this act, and 39-7,121, as amended by section 26 of this act, and K.S.A. 2004 Supp. 39-7,118, as amended by section 23 of this act, 39-7,119, as amended by section 24 of this act, 39-7,120, as amended by section 25 of this act, 39-7,121a, as amended by section 27 of this act, 39-7,121d, as amended by section 28 of this act, and 39-7,121e, as amended by section 29 of this act, are hereby repealed.

Sec. 62. This act shall take effect and be in force from and after its publication in the statute book.”;

On page 1, in the title, by striking all in lines 10 through 18 and inserting the following: “AN ACT establishing the Kansas health policy authority; prescribing powers, duties and functions therefor; establishing a division of health policy and finance and a director of health policy and finance within the department of administration and transferring certain powers, duties and functions thereto; amending K.S.A. 39-7,116, 39-7,121, 65-6801, 65-6804, 65-6805, 65-6806, 65-6807 and 65-6809 and K.S.A. 2004 Supp. 39-7,118, 39-7,119, 39-7,120, 39-7,121a, 39-7,121d, 39-7,121e, 40-4702, 40-4706 and 65-6803 and repealing the existing sections; also amending sections 9 through 18 of this act and repealing the existing sections; also amending K.S.A. 39-7,116, as amended by section 22 of this act, and 39-7,121, as amended by section 26 of this act, and K.S.A. 2004 Supp. 39-7,118, as amended by section 23 of this act, 39-7,119, as amended by section 24 of this act, 39-7,120, as amended by section 25 of this act, 39-7,121a, as amended by section 27 of this act, 39-7,121d as amended by section 28 of this act, and 39-7,121e as amended by section 29 of this act, and repealing the existing sections; also repealing K.S.A. 65-6808 and sections 7 and 8 of this act.”;

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

MELVIN NEUFELD  
BRENDA LANDWEHR  
BILL FEUERBORN  
*Conferees on part of House*

DWAYNE UMBARGER  
JIM BARNETT  
*Conferees on part of Senate*

Senator Barnett moved the Senate adopt the Conference Committee Report on **H Sub for SB 272**.

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

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, O’Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Absent or Not Voting: Allen.

The Conference Committee report was adopted.

#### VETO SUSTAINED

Announcing a veto message from the Governor on **SB 107**, An act concerning the employment security law; relating to the charging of benefit payments; amending K.S.A. 2004 Supp. 44-710 and repealing the existing section, was received and read.

There being no action on **SB 107**, the veto was sustained.

#### ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **S Sub for HB 2482**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2482**, 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 42, by striking "\$507,886" and inserting "\$442,771";

On page 3, by striking all in lines 7 through 10; preceding line 11, by inserting the following:

"Health policy and finance — state operations For the fiscal year ending June 30, 2006.....	\$16,903,613
Health policy and finance — other medical assistance For the fiscal year ending June 30, 2006.....	\$397,138,363
Health policy and finance — children's health insurance program For the fiscal year ending June 30, 2006.....	\$13,965,271";
Also on page 3, preceding line 21 by inserting the following:	
"Social welfare fund For the fiscal year ending June 30, 2006.....	\$40,789,636
Other state fees fund For the fiscal year ending June 30, 2006.....	No limit
Health care access improvement fund For the fiscal year ending June 30, 2006.....	No limit
Other federal grants and assistance fund For the fiscal year ending June 30, 2006.....	No limit
Medical assistance federal fund For the fiscal year ending June 30, 2006.....	No limit
Children's health insurance federal fund For the fiscal year ending June 30, 2006.....	No limit
Ticket to work infrastructure grant federal fund For the fiscal year ending June 30, 2006.....	No limit
Health policy and finance — PERM grant federal fund For the fiscal year ending June 30, 2006.....	No limit";

On page 4, in line 36, by striking "805.60" and inserting "935.98"; by striking all in lines 37 through 43;

On page 5, by striking all in lines 1 through 18 and inserting the following:

"(g) (1) On July 1, 2005, notwithstanding the provisions of any other statute, the director of accounts and reports shall record a debit to the state treasurer's receivables for the state general fund and shall record a corresponding credit to the state general fund in the amount of \$32,689,900 to finance the cost of the 27th payroll chargeable to the fiscal year ending June 30, 2006, for state agencies.

(2) On or before September 1, 2005, the director of accounts and reports shall adjust the amounts debited and credited to the state treasurer's receivables and to the state general fund pursuant to this subsection (g), to reflect all moneys actually transferred and credited to the state general fund during fiscal year 2006.



(3) Prior to August 15, 2005, the director of the budget shall determine and certify to the director of accounts and reports:

(A) (i) The amount reappropriated in each account of the state general fund of a state agency, other than any regents agency, from the state general fund that has a specific expenditure limitation prescribed for fiscal year 2006 and that is in excess of the amount authorized under the approved budget of expenditures to be expended from such reappropriated amount for fiscal year 2006;

(ii) the amount reappropriated in each account of the state general fund of a state agency, other than any regents agency, from the state general fund that has no specific expenditure limitation prescribed for the fiscal year, that is in excess of the amount estimated under the approved budget of expenditures to be expended from such reappropriated amount for fiscal year 2006, and that is determined by the director of the budget not to be needed for the purpose for which such amount was originally budgeted, including, but not limited to, actual or projected cost savings as a result of completed, cancelled or modified projects, programs or operations: *Provided*, That, as used in paragraphs (i) and (ii) of this subsection (g)(3)(A), "specific expenditure limitation prescribed for the fiscal year" includes any case in which no expenditures may be made from such reappropriated balance except upon approval by the state finance council;

(B) the amount equal to 10% of the amount determined by the director of the budget to be the amount (i) that is available to be expended for fiscal year 2006 from each Kansas savings incentive program account in the state general fund or in any special revenue fund of each state agency, other than any regents agency, under the Kansas savings incentive program, and (ii) that is in excess of \$50,000 in such Kansas savings incentive program account;

(C) the aggregate of all unanticipated lapses of moneys which were appropriated or reappropriated from the state general fund for fiscal year 2005 and which were not reappropriated for fiscal year 2006, as determined by the director of the budget after consulting with the director of the legislative research department: *Provided*, That, as used in this subsection (g)(3)(C), "unanticipated lapses of moneys" shall not include any amount lapsed from the state general fund pursuant to explicit language in an appropriation act of the 2005 regular session of the legislature or any amount lapsed from the state general fund for which specific reappropriation language was deliberately not included in any appropriation act of the 2005 regular session of the legislature; and

(D) the aggregate of all amounts of unencumbered balances in accounts of the state general fund that were first encumbered during a fiscal year commencing prior to July 1, 2004, that were released during fiscal year 2005, and that were not specifically reappropriated by an appropriation act of the 2005 regular session of the legislature.

(4) On August 15, 2005, in accordance with the certification by the director of the budget that is submitted to the director of accounts and reports under subsection (g)(3), the expenditure limitation established for fiscal year 2006 for each special revenue fund account under the Kansas savings incentive program that is appropriated for the fiscal year ending June 30, 2006, by this or other appropriation act of the 2005 regular session of the legislature is hereby respectively decreased by the amount equal to the amount certified under subsection (g)(3).

(5) (A) On August 15, 2005, in accordance with the certification by the director of the budget that is submitted to the director of accounts and reports under subsection (g)(3), the appropriation for fiscal year 2006 for each account of the state general fund, state economic development initiatives fund, state water plan fund, children's initiatives fund and Kansas endowment for youth fund that is appropriated or reappropriated for the fiscal year ending June 30, 2006, by this or other appropriation act of the 2005 regular session of the legislature is hereby respectively lapsed by the amount equal to the amount certified under subsection (g)(3).

(B) On August 15, 2005, in accordance with the certification by the director of the budget that is submitted to the director of accounts and reports under subsection (g)(3), the appropriation for fiscal year 2006 for each account of the state general fund, state economic development initiatives fund, state water plan fund, children's initiatives fund and Kansas endowment for youth fund under the Kansas savings incentive program that is appropriated

or reappropriated for the fiscal year ending June 30, 2006, by this or other appropriation act of the 2005 regular session of the legislature is hereby respectively lapsed by the amount equal to the amount certified under subsection (g)(3).

(6) At the same time as the director of the budget transmits the certification to the director of accounts and reports pursuant to subsection (g)(3), the director of the budget shall transmit a copy of such certification to the director of the legislative research department.

(7) (A) Prior to August 15, 2005, the state board of regents shall determine and certify to the director of the budget each of the specific amounts from the amounts appropriated from the state general fund or from the moneys appropriated and available in the special revenue funds for each of the regents agencies to be transferred to and debited to the 27th payroll adjustment account of the state general fund by the director of accounts and reports pursuant to this subsection (g): *Provided* That the aggregate of all such amounts certified to the director of the budget shall be an amount that is equal to or more than \$1,184,054. The certification by the state board of regents shall specify the amount in each account of the state general fund or in each special revenue fund, or account thereof, that is designated by the state board of regents pursuant to this subsection for each of the regents agencies to be transferred to and debited to the 27th payroll adjustment account in the state general fund by the director of accounts and reports pursuant to this subsection (g). At the same time as such certification is transmitted to the director of the budget, the state board of regents shall transmit a copy of such certification to the director of the legislative research department.

(B) The director of the budget shall review each such certification from the state board of regents and shall certify a copy of each such certification from the state board of regents to the director of accounts and reports. At the same time as such certification is transmitted to the director of accounts and reports, the director of the budget shall transmit a copy of each such certification to the director of the legislative research department.

(C) On August 15, 2005, in accordance with the certification by the director of the budget that is submitted to the director of accounts and reports under this subsection (g)(7), the appropriation for fiscal year 2006 for each account of the state general fund, state economic development initiatives fund, state water plan fund and children's initiatives fund that is appropriated or reappropriated for the fiscal year ending June 30, 2006, by this or other appropriation act of the 2005 regular session of the legislature is hereby respectively lapsed by the amount equal to the amount certified under this subsection (g)(7).

(8) In determining the amounts to be certified to the director of accounts and reports in accordance with this subsection (g), the director of the budget and the state board of regents shall consider any changed circumstances and unanticipated reductions in expenditures or unanticipated and required expenditures by the state agencies for fiscal year 2006.

(9) (A) On or before September 1, 2005, after receipt of each certification by the director of the budget pursuant to this subsection (g), the director of accounts and reports shall transfer and debit to the 27th payroll adjustment account of the state general fund, which is hereby established in the state general fund, by an amount equal to the aggregate of the amounts certified by the director of the budget pursuant to subsection (g)(3) and subsection (g)(7) in accordance with such certifications.

(B) On September 1, 2005, the director of accounts and reports shall transfer the balance of the 27th payroll adjustment account of the state general fund to the master account of the state general fund: *Provided, however*, That the amount transferred shall not exceed the amount of the then outstanding balance of the state treasurer's receivables for the state general fund.

(C) On September 1, 2005, the director of accounts and reports shall adjust the amounts debited and credited to the state treasurer's receivables and to the 27th payroll adjustment account of the state general fund pursuant to this subsection (g), to reflect all moneys actually transferred and credited to the 27th payroll adjustment account of the state general fund pursuant to this subsection (g) during fiscal year 2006.

(D) On or before June 30, 2006, the director of accounts and reports shall record a credit to the state treasurer's receivables for the state general fund and shall record a corresponding debit to the state general fund in the amount of the outstanding receivable created to finance the cost of the 27th payroll chargeable to the fiscal year ending June 30, 2006.

(E) The director of accounts and reports shall notify the state treasurer of all amounts debited and credited to the 27th payroll adjustment account of the state general fund pursuant to this subsection (g) and all reductions and adjustments thereto made pursuant to this subsection (g). The state treasurer shall enter all such amounts debited and credited and shall make reductions and adjustments thereto on the books and records kept and maintained for the state general fund by the state treasurer in accordance with the notice thereof.

(10) As used in this subsection (g), "regents agency" means the state board of regents, Fort Hays state university, Kansas state university, Kansas state university extension systems and agriculture research programs, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, and Wichita state university.

(11) The provisions of this subsection (g) shall not apply to:

(A) The health care stabilization fund of the health care stabilization fund board of governors;

(B) any moneys held in trust in a trust fund or held in trust in any other special revenue fund of any state agency;

(C) any moneys received from any agency or authority of the federal government or from any other federal source, other than any such federal moneys that are credited to or may be received and credited to special revenue funds of a regents agency and that are determined by the state board of regents to be federal moneys that may be transferred to and debited to the 27th payroll adjustment account of the state general fund by the director of accounts and reports pursuant to this subsection (g); or

(D) any account of the Kansas educational building fund or the state institutions building fund.

(12) Each amount transferred from any special revenue fund of any state agency, including any regents agency, to the state general fund pursuant to this subsection (g), is transferred to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

(13) On or after July 1, 2006, notwithstanding the provisions of K.S.A. 75-4209 and amendments thereto or any other statute, upon specific authorization in an appropriation act of the legislature, the pooled money investment board is authorized and directed to loan an amount of not more than \$6,000,000 to the state general fund to provide financing for any additional amounts required above the moneys otherwise provided by law to repay amounts provided by law to finance the cost of the 27th payroll chargeable to the fiscal year 2006 and to provide for an adequate reserve in the 27th payroll adjustment account. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for such loan. Such loan shall not bear interest and shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas.

(h) There is appropriated for the above agency from the children's initiatives fund for the fiscal year or years specified, the following:

HealthWave	
For the fiscal year ending June 30, 2006.....	\$2,000,000
Medicaid	
For the fiscal year ending June 30, 2006.....	\$3,000,000
Immunization outreach	
For the fiscal year ending June 30, 2006.....	\$500,000

(i) On July 1, 2005, or as soon thereafter as moneys are available during the fiscal year ending June 30, 2006, the director of accounts and reports shall transfer \$40,789,636 from the social welfare fund of the department of social and rehabilitation services to the social welfare fund of the department of administration.

(j) On July 1, 2005, or as soon thereafter as moneys are available during the fiscal year ending June 30, 2006, the director of accounts and reports shall transfer \$187,500 from the

other state fees fund of the department of social and rehabilitation services to the other state fees fund of the department of administration.

(k) On July 1, 2005, or as soon thereafter as moneys are available during the fiscal year ending June 30, 2006, the director of accounts and reports shall transfer \$803,875,736 from the medical assistance federal fund of the department of social and rehabilitation services to the medical assistance federal fund of the department of administration.

(l) On July 1, 2005, or as soon thereafter as moneys are available during the fiscal year ending June 30, 2006, the director of accounts and reports shall transfer \$536,685 from the other federal grants and assistance fund of the department of social and rehabilitation services to the other federal grants and assistance fund of the department of administration.

(m) On July 1, 2005, or as soon thereafter as moneys are available during the fiscal year ending June 30, 2006, the director of accounts and reports shall transfer \$44,324,484 from the children's health insurance federal fund of the department of social and rehabilitation services to the children's health insurance federal fund of the department of administration.

(n) On July 1, 2005, or as soon thereafter as moneys are available during the fiscal year ending June 30, 2006, the director of accounts and reports shall transfer \$44,737,733 from the health care access improvement fund of the department of social and rehabilitation services to the health care access improvement fund of the department of administration.

(o) (1) During the fiscal year ending June 30, 2006, upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto, except that such approval also may be given while the legislature is in session, the secretary of social and rehabilitation services may transfer moneys appropriated for fiscal year 2006 from any account of the state general fund or any special revenue fund of the department of social and rehabilitation services to the appropriate account of the state general fund or special revenue fund of the department of administration for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of social and rehabilitation services and department of social and rehabilitation services to the director of health policy and finance and the division of health policy and finance within the department of administration on July 1, 2005, pursuant to 2005 House Substitute for Senate Bill No. 272.

(2) During the fiscal year ending June 30, 2006, upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto, except that such approval also may be given while the legislature is in session, the secretary of administration may transfer moneys appropriated for fiscal year 2006 from any account of the state general fund or any special revenue fund of the department of administration to the appropriate account of the state general fund or special revenue fund of the department of social and rehabilitation services for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of social and rehabilitation services and department of social and rehabilitation services to the director of health policy and finance and the division of health policy and finance within the department of administration on July 1, 2005, pursuant to 2005 House Substitute for Senate Bill No. 272.

(p) In addition to the other purposes for which expenditures may be made by the department of administration from moneys appropriated from the state general fund or any special revenue fund for the fiscal year ending June 30, 2006, as authorized by this or other appropriation act of the 2005 regular session of the legislature, expenditures shall be made by the department of administration from moneys appropriated from the state general fund or any special revenue fund for the fiscal year ending June 30, 2006, to include modifications, within the federally required modifications to the medicaid management information system (MMIS), for implementation of the electronic prescriptions system (e-prescriptions) including components to provide information for non-medicaid eligible prescriptions to recipients in order to assist in access to free or reduced-cost drugs: *Provided*, That no expenditures shall be made for modification to the medicaid management information system without review by the joint committee on information technology.”;

On page 6, in line 13, following “centers” by inserting “and reentry programs”; in line 14, by striking “\$908,709” and inserting “\$844,263”; by striking all in lines 15 through 31 and inserting the following:

“*Provided*, That all expenditures from the day reporting centers and reentry programs account shall be for the purposes of providing the required state match for receipt of local funds for reentry programs with the state match of two-thirds and a local match of one-third: *Provided further*, That all expenditures from the day reporting centers and reentry programs account shall be made pursuant to contracts which are hereby authorized to be entered into by the secretary of corrections with the counties of Sedgwick and Wyandotte and the city of Wichita for operation of such reentry programs: *And provided further*, That the secretary of corrections shall report to the joint committee on corrections and juvenile justice oversight prior to January 2006 on the status of the negotiations and plans for the reentry program and day reporting center in Wyandotte county, including a report about the cooperation and financial participation of Wyandotte county with the reentry program and with the day reporting center of the department of corrections in such county during fiscal year 2006.”;

On page 7, by striking all in lines 38 through 43;

On page 8, by striking all in lines 1 through 30; preceding line 31, by inserting the following:

“(h) On July 1, 2005, the day reporting center account of the state general fund of the department of corrections, as designated by section 129(f) of 2005 Senate Bill No. 225, is hereby redesignated as the day reporting centers and reentry programs account of the state general fund of the department of corrections.”;

Also on page 8, by striking all in lines 35 and 36; following line 39, by inserting the following:

“For the fiscal year ending June 30, 2005 ..... \$493,984”;

Also on page 8, in line 40, by striking “\$1,148,858” and inserting “\$2,243,622”; in line 42, by striking “\$575,000” and inserting “\$78,000”;

On page 9, in line 10, by striking “\$23,582,835” and inserting “\$23,507,835”; by striking all in line 18; in line 34, by striking “\$67,866,463” and inserting “\$27,076,827”; by striking all in lines 35 through 39;

By relettering the remaining subsections accordingly;

On page 10, in line 18, by striking “\$61.20” and inserting “940.20”; following line 18, by inserting the following:

“(j) On July 1, 2005, of the \$96,608,245 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 111(a) of 2005 Senate Bill No. 225 from the state general fund in the state operations account, the sum of \$13,154,158 is hereby lapsed.

(k) (1) On July 1, 2005, of the \$14,181,675 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 111(a) of 2005 Senate Bill No. 225 from the state general fund in the children’s health insurance account, the sum of \$13,965,271 is hereby lapsed.

(2) On July 1, 2005, the appropriation of the unencumbered balance in the children’s health insurance account of the department of social and rehabilitation services in excess of \$100 as of June 30, 2005, for the above agency for the fiscal year ending June 30, 2006, by section 111(a) of 2005 Senate Bill No. 225 from the state general fund in the children’s health insurance account is hereby lapsed.

(l) (1) On July 1, 2005, of the \$426,725,237 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 111(a) of 2005 Senate Bill No. 225 from the state general fund in the other medical assistance account, the sum of \$375,543,603 is hereby lapsed.

(2) On July 1, 2005, the appropriation of the unencumbered balance in the other medical assistance account of the department of social and rehabilitation services in excess of \$100 as of June 30, 2005, for the above agency for the fiscal year ending June 30, 2006, by section 111(a) of 2005 Senate Bill No. 225 from the state general fund in the other medical assistance account, is hereby lapsed.

(m) (1) On July 1, 2005, the \$2,000,000 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 111(c) of 2005 Senate Bill No. 225 from the state general fund in the children's initiatives fund in the healthwave account, is hereby lapsed.

(2) On July 1, 2005, the appropriation of any unencumbered balance in the healthwave account of the department of social and rehabilitation services in excess of \$100 as of June 30, 2005, for the above agency for the fiscal year ending June 30, 2006, by section 111(c) of 2005 Senate Bill No. 225 from the children's initiatives fund in the healthwave account, is hereby lapsed.

(n) (1) On July 1, 2005, the \$3,000,000 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 111(c) of 2005 Senate Bill No. 225 from the children's initiatives fund in the medicaid account, is hereby lapsed.

(2) On July 1, 2005, the appropriation of unencumbered balance in the Medicaid account of the department of social and rehabilitation services in excess of \$100 as of June 30, 2005, for the above agency for the fiscal year ending June 30, 2006, by section 111(c) of 2005 Senate Bill No. 225 from the children's initiatives fund in the medicaid account, is hereby lapsed.

(o) (1) On July 1, 2005, the \$500,000 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 111(c) of 2005 Senate Bill No. 225 from the children's initiatives fund in the immunization outreach account, is hereby lapsed.

(2) On July 1, 2005, the appropriations of unencumbered balance in the immunization outreach account of the department of social and rehabilitation services in excess of \$100 as of June 30, 2005, for the above agency for the fiscal year ending June 30, 2006, by section 111(c) of 2005 Senate Bill No. 225 from the children's initiatives fund in the immunization outreach account, is hereby lapsed.

(p) On July 1, 2005, the position limitation established for the fiscal year ending June 30, 2006, by section 146(a) of 2005 Senate Bill No. 225 for the department of social and rehabilitation services is hereby decreased from 3,981.50 to 3,848.12.

(q) During the fiscal year ending June 30, 2006, no moneys paid by the department of social and rehabilitation services from the mental health and retardation services aid and assistance account of the state general fund shall be expended by the entity receiving such moneys to pay membership dues and fees to any entity that does not provide the department of social and rehabilitation services, the legislative division of post audit, or another state agency with access to its financial records upon request for such access.

(r) During the fiscal year ending June 30, 2006, money shall be expended by the department of social and rehabilitation services from the cash assistance account of the state general fund to maximize child care assistance dollars to serve the most children possible.”;

Also on page 10, preceding line 25, by inserting the following:

“(b) In addition to the other purposes for which expenditures may be made from moneys appropriated from the state general fund, board of nursing fee fund, gifts and grants fund, education conference fund or any other special revenue fund for fiscal year 2006 or fiscal year 2007 for the board of nursing, as authorized by section 70(a) of 2005 Senate Bill No. 225 or as authorized by this or other appropriation act of the 2005 regular session of the legislature, notwithstanding the provisions of K.S.A.74-1106, 74-1108 or 74-1109, and amendments thereto, or any other statute, the board of nursing shall make expenditures for fiscal year 2006 and fiscal year 2007 to pay for the costs of completing a clinical curriculum that meets the clinical component requirements in K.A.R. 60-1-104 and 60-2-105, and amendments thereto, for licensure as a registered nurse, for each of the 58 persons enrolled in the Excelsior College Associate Degree Registered Nurse program prior to February 16, 2005: *Provided*, That all such expenditures by the board of nursing from such funds for fiscal year 2006 and fiscal year 2007 to pay for the costs of completing such clinical programs shall be for payments to postsecondary educational institutions or proprietary schools, as defined by K.S.A. 74-3201b and amendments thereto, which are located in Kansas for clinical programs offered in Kansas.”;

On page 11, in line 41, by striking “\$170,139” and inserting “\$270,369”; by striking all in lines 42 and 43;

On page 12, by striking all in lines 1 and 2 and inserting the following:

“(b) In addition to the other purposes for which expenditures may be made by the Kansas state school for the blind from moneys appropriated from the state general fund or any special revenue fund for the fiscal year ending June 30, 2006, as authorized by section 116 of 2005 Senate Bill No. 225 or by this or other appropriation act of the 2005 regular session of the legislature, expenditures shall be made by the Kansas state school for the blind from moneys appropriated from the state general fund or any special revenue fund for the year ending June 30, 2006, (1) to pay to each person employed by the Kansas state school for the blind, as defined by K.S.A. 76-11a04 and amendments thereto, compensation for such employment at a rate that is not less than the rate of compensation that is paid to a teacher employed by unified school district no. 233, Olathe, Kansas, who has comparable or substantially the same levels of education and experience as the person employed by the Kansas state school for the blind or (2) if no such teacher is employed by such school district during that time period, then to pay compensation such person employed by the Kansas state school for the blind shall be paid compensation at a rate that is not less than the rate of compensation that would be paid to such a teacher employed by unified school district no. 233, Olathe, Kansas, during such time period.”;

Also on page 12, in line 8, by striking “\$336,208” and inserting “\$556,696”; by striking all in lines 9 through 12 and inserting the following:

“(b) In addition to the other purposes for which expenditures may be made by the Kansas state school for the deaf from moneys appropriated from the state general fund or any special revenue fund for the fiscal year ending June 30, 2006, as authorized by section 117 of 2005 Senate Bill No. 225 or by this or other appropriation act of the 2005 regular session of the legislature, expenditures shall be made by the Kansas state school for the deaf from moneys appropriated from the state general fund or any special revenue fund for the year ending June 30, 2006, (1) to pay to each person employed by the Kansas state school for the deaf, as defined by K.S.A. 76-11a04 and amendments thereto, compensation for such employment at a rate that is not less than the rate of compensation that is paid to a teacher employed by unified school district no. 233, Olathe, Kansas, who has comparable or substantially the same levels of education and experience as the person employed by the Kansas state school for the deaf, or (2) if no such teacher is employed by such school district during that time period, then to pay compensation such person employed by the Kansas state school for the deaf shall be paid compensation at a rate that is not less than the rate of compensation that would be paid to such a teacher employed by unified school district no. 233, Olathe, Kansas, during such time period.”;

On page 15, by striking all in lines 22 through 29; preceding line 33, by inserting the following:

“(c) In addition to the other purposes for which expenditures may be made by the state board of regents from the moneys appropriated from the state general fund in the teachers scholarship program account, from the teacher scholarship program fund, and from the teacher scholarship repayment fund for fiscal year 2006 as authorized by section 128 of the 2005 Senate Bill No. 225 or by this or other appropriation act of the 2005 regular session of the legislature, notwithstanding the provisions of the teacher service scholarship program, K.S.A. 74-32,101et seq., and amendments thereto, expenditures may be made by the state board of regents from the moneys appropriated from the state general fund in the teachers scholarship program account from the teacher scholarship program fund, or from the teacher scholarship repayment fund for fiscal year 2006 for scholarships to students attending Washburn university of Topeka who qualify under guidelines prescribed for the teacher service scholarship program on the same basis as students attending a state educational institution, as defined by K.S.A. 76-711, and amendments thereto.”;

On page 18, in line 30, by striking “\$1,055,082” and inserting “\$755,082”;

On page 19, by striking all in lines 6 through 34 and inserting the following:

“(f) On and after the effective date of this act, during the fiscal year ending June 30, 2005, and during the fiscal year ending June 30, 2006, no expenditures shall be made from any moneys appropriated for the department of wildlife and parks or any other state agency from the state general fund or any special revenue fund for fiscal year 2005 and fiscal year 2006 by chapter 123 or 184 of the 2004 Session Laws of Kansas or by 2005 Senate Bill No. 225 or by this or other appropriation act of the 2005 regular session of the legislature for

the acquisition, operation, or maintenance of the Circle K Ranch except upon specific authorization of such acquisition, operation or maintenance in an appropriation act of the legislature enacted into law.

(g) During the fiscal year ending June 30, 2006, in addition to the other purposes for which expenditures may be made from the department access road fund for fiscal year 2006, as authorized by section 174(c) of 2005 Senate Bill No. 225, notwithstanding the provisions of any other statute, the secretary may make expenditures from the department access road fund for fiscal year 2006 for operating expenditures which may be paid from the parks fee fund for fiscal year 2006 for which there are insufficient moneys available for expenditure in the parks fee fund for fiscal year 2006.

(h) The secretary of wildlife and parks is hereby directed, after authorizing expenditures from the department access road fund or the bridge maintenance fund for the purpose of paying operating expenditures other than capital improvement projects, to pledge when sufficient funds are available on or after June 30, 2006, in the parks fee fund, to repay from the parks fee fund any and all amounts expended for fiscal year 2005 or fiscal year 2006 from the department access road fund or the bridge maintenance fund for the purpose of paying operating expenditures other than capital improvements.

(i) On the effective date of this act, the director of accounts and reports shall transfer \$170,000 from the state general fund to the bridge maintenance fund of the department of wildlife and parks in order to reverse a transfer out of BEST savings during the fiscal year ending June 30, 2005.

(j) Notwithstanding the provisions of K.S.A. 68-416, and amendments thereto, or of any other provisions of law to the contrary, expenditures may be made from the department access road fund for salaries and wages and other operating expenditures of the department of wildlife and parks, including executive services, administrative services, parks and public lands, and capital improvements.”;

Also on page 19, by striking all in line 41;

On page 20, preceding line 8, by inserting the following:

“*Provided*, That funding from this account shall be for one fiscal year only.”;

Also on page 20, in line 11, by striking “\$452,083” and inserting “\$160,965”; by striking all in lines 12 through 23; in line 24, by striking “(d)” and inserting “(b)”; in line 38, by striking “(e)” and inserting “(c)”;

On page 21, in line 8, by striking “(f)” and inserting “(d)”; in line 24, by striking “(g)” and inserting “(e)”; following line 28, by inserting the following:

“*Provided*, That the above agency shall conduct a competitive bidding process for distributing grants from all moneys appropriated in the smoking prevention account of the children’s initiatives fund by this section or by section 108(c) of 2005 Senate Bill No. 225.”;

Also on page 21, in line 29, by striking “(h)” and inserting “(f)”; in line 31, by striking “initiative” and inserting “initiatives”; preceding line 32, by inserting the following:

“(g) On January 1, 2006, the position limitation established for the fiscal year ending June 30, 2006, by section 146(a) of 2005 Senate Bill No. 225 for the department of health and environment — division of health is hereby decreased from 418.00 to 415.00.

(h) On January 1, 2006, the appropriation of all moneys credited to and available in the health care database fee fund for the fiscal year ending June 30, 2006, by section 108(b) of 2005 Senate Bill No. 225 is hereby lapsed.”;

On page 22, preceding line 22, by inserting the following:

“(c) There is appropriated for the above agency from the state water plan fund for the fiscal year or years specified, the following:

Contamination remediation	
For the fiscal year ending June 30, 2006.....	\$200,000
Use attainability analyses	
For the fiscal year ending June 30, 2006.....	\$300,000

(d) In addition to the other purposes for which expenditures may be made by the department of health and environment — division of environment from the contamination remediation account or the use attainability analyses account, or both, of the state water plan fund for fiscal year 2005 and fiscal year 2006 as authorized by section 99 of chapter 123 of the 2004 Session Laws of Kansas or section 109 of 2005 Senate Bill No. 225 or by



this or other appropriation act of the 2005 regular session of the legislature, expenditures may be made by the above agency from such accounts of the state water plan fund for fiscal year 2005 and fiscal year 2006 for additional landfill site analyses after the secretary of health and environment has certified such purpose and need to the governor therefor: *Provided*, That aggregate expenditures for such purpose from such accounts of the state water plan fund for fiscal year 2005 or fiscal year 2006 shall not exceed \$50,000.”;

Also on page 22, by striking all in lines 24 through 27;

By relettering the remaining subsections accordingly;

Also on page 22, in line 33, preceding the period by inserting “: *Provided*, That the state fire marshal shall have authority to transfer funds from the hazardous materials emergency fund to the fire marshal fee fund in order to fund agency operating expenditures”;

On page 23, in line 9, preceding “economic” by inserting “state”; in line 16, preceding “economic” and inserting “state”; in line 35, by striking “\$359,173” and inserting “\$647,835”; by striking all in lines 42 and 43;

On page 24, by striking all in lines 1 through 3 and inserting the following:

“(b) There is appropriated for the above agency from the state institutions building fund for the fiscal year or years specified and for the capital improvement project or projects specified, the following:

Capital improvements — rehabilitation, remodeling, renovation and repair  
For the fiscal year ending June 30, 2005..... \$1,204,192

*Provided*, That expenditures may be made from the capital improvements — rehabilitation, remodeling, renovation and repair account for fiscal year 2005 for rehabilitation and repair projects within the juvenile justice authority only upon approval by the state finance council acting on this matter, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto and acting after receiving the recommendations of the joint committee on state building construction.

For the fiscal year ending June 30, 2006..... \$680,000

*Provided*, That expenditures may be made from the capital improvements — rehabilitation, remodeling, renovation and repair account for fiscal year 2006 for rehabilitation and repair projects within the juvenile justice authority only upon approval by the state finance council acting on this matter, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto and acting after receiving the recommendations of the joint committee on state building construction.

Install backup generator Topeka juvenile correctional facility  
For the fiscal year ending June 30, 2005..... \$41,000

Debt service — Topeka complex and Larned juvenile correctional facility  
For the fiscal year ending June 30, 2005..... \$2,006,181

For the fiscal year ending June 30, 2006..... \$1,795,000

(c) In addition to the other purposes for which expenditures may be made by the juvenile justice authority from the prevention program grant account of the children’s initiatives fund for fiscal year 2005 as authorized by section 122(b) of chapter 123 of the 2004 Session Laws of Kansas and for fiscal year 2006 as authorized by section 130(b) of 2005 Senate Bill No. 225, expenditures may be made by the above agency from the prevention program grant account of the children’s initiatives fund for fiscal years 2005 and 2006 for core services and graduated sanctions.

(d) On July 1, 2005, of the \$1,129,994 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 130(a) of 2005 Senate Bill No. 225 from the state general fund in the management information systems account, the sum of \$7,821 is hereby lapsed.”;

On page 26, in line 38, by striking “\$250,000” and inserting “\$125,000”; in line 43, preceding the colon by inserting “from an allocation to the adjutant general from the state emergency fund made by the state finance council for such purpose pursuant to this subsection”;

On page 27, in line 22, following “That” by inserting a comma; in line 26, preceding the colon by inserting “and, at the same time, the director of the budget shall transmit a copy

of such certification to the director of the legislative research department"; in line 31, by striking "subsection" and inserting "section"; in line 43, by striking "\$250,000" and inserting "\$125,000";

On page 28, in line 7, by striking "\$250,000" and inserting "\$125,000";

On page 29, in line 9, by striking "hanger" and inserting "hangar"; in line 11, by striking "hanger" and inserting "hangar"; in line 26, by striking "\$993,931" and inserting "\$772,866"; by striking all in lines 27 through 30;

On page 30, by striking all in lines 1 through 13; in line 14, by striking "(d)" and inserting "(c)";

Also on page 30, in line 23, by striking "\$14,870" and inserting "\$18,212";

On page 32, in line 19, by striking "903" and inserting "903(d)"; in line 22, by striking "903" and inserting "903(d)"; in line 26, by striking "903" and inserting "903(d)";

On page 33, in line 29, by striking "\$1,371,235" and inserting "\$1,243,355"; in line 42, by striking "\$277,057" and inserting "\$292,379";

On page 34, in line 6, by striking "\$327,214" and inserting "\$241,543"; in line 21, by striking "\$351,121" and inserting "\$297,121";

On page 35, in line 6, by striking "\$120,000" and inserting "\$30,000";

On page 37, preceding line 26, by inserting the following:

*Provided*, That all moneys received to reimburse the Kansas animal health department for expenditures resulting from veterinary care provided to dogs seized in Anderson county on October 12, 2004, shall be deposited in the state treasury to the credit of the animal donation fund and shall be expended from the fund for such purpose.;

Also on page 37, by striking all in lines 40 through 43;

On page 38, by striking all in line 3 and inserting "Watershed dam construction"; preceding line 5, by inserting the following:

*Provided*, That an amount of not to exceed \$750,000 shall be expended from the watershed dam construction account to award cost-sharing grants for the correction of any violation or condition existing in the construction, modification, operation or maintenance of a dam or other water obstruction as prescribed in K.S.A. 82a-303c, and amendments thereto: *Provided further*, That, in addition to the other purposes for which expenditures may be made by the state conservation commission from moneys appropriated from the state general fund or any special revenue fund of the state conservation commission by this or other appropriation act of the 2005 regular session of the legislature, the state conservation commission shall make expenditures from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2006 for the development and adoption of rules and regulations not later than March 1, 2006, to implement such program for cost-sharing grants for the correction of any violation or condition existing in the construction, modification, operation or maintenance of a dam or other water obstruction as prescribed in K.S.A. 82a-303c and amendments thereto.

Multipurpose small lakes program

For the fiscal year ending June 30, 2006..... \$236,333

*Provided*, That expenditures shall be made from the multipurpose small lakes program account for the construction of horsethief reservoir.;

Also on page 38, in line 5, preceding "economic" by inserting "state"; preceding line 14, by inserting the following:

"Multipurpose small lakes program

For the fiscal year ending June 30, 2006..... \$50,000

*Provided*, That expenditures shall be made from the multipurpose small lakes program account for the construction of horsethief reservoir.;

Also on page 38, preceding line 38, by inserting the following:

"(e) There is appropriated for the state conservation commission from the state water plan fund for the fiscal year ending June 30, 2006, from amounts first released from amounts encumbered by the Kansas department of agriculture, the department of health and environment, the state conservation commission, the Kansas water office, or any other state agency from the state water plan fund, or any account thereof, the amount of \$300,000 for the multipurpose small lakes program of the state water plan fund of the state conservation

commission: *Provided*, that expenditures shall be made from the multipurpose small lakes program account for the construction of horsethief reservoir.”;

On page 39, following line 42, by inserting the following:

“(d) In addition to the other purposes for which expenditures may be made by the Kansas water office from the state general fund or any special revenue fund for fiscal year 2006 as authorized by section 134 of chapter 123 or by section 9 of chapter 184 of the 2004 Session Laws of Kansas, by section 142 of 2005 Senate Bill No. 225 or by any other appropriation act of the 2005 regular session of the legislature, expenditures shall be made by the above agency to complete a study on augmentation of the Rattlesnake creek basin and report the results of the study to the house of representatives agriculture and natural resources budget committee on or before February 1, 2006.

(e) On the effective date of this act, notwithstanding the provisions of K.S.A. 82a-1801, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$4,842,212 from the amount which was recovered by the state of Kansas from a settlement, judgment or decree in the litigation commenced in 1985 by the state of Kansas against the state of Colorado and was deposited in the state treasury to the credit of the interstate water litigation fund of the attorney general to the water conservation project reserve account of state water plan fund, which is hereby created in the state water plan fund: *Provided*, That the amount transferred to the water conservation project reserve account of state water plan fund pursuant to this subsection shall be reserved for use for water conservation projects as prescribed by subsection (a)(2) of K.S.A. 82a- 1801 and amendments thereto: *Provided further*, That the state finance council shall have no authority to approve any transfer of moneys from the water conservation project reserve account of state water plan fund, to authorize or approve any expenditure of moneys from the water conservation project reserve account of state water plan fund, or to increase any expenditure limitation on the water conservation project reserve account of state water plan fund: *And provided further*, That no expenditures shall be authorized or made from the water conservation project reserve account of the state water plan fund by any state agency, except upon specific authorization therefor by appropriation act of the legislature.

(f) On the effective date of this act, notwithstanding the provisions of K.S.A. 82a-1801, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$9,684,425 from the amount which was recovered by the state of Kansas from a settlement, judgment or decree in the litigation commenced in 1985 by the state of Kansas against the state of Colorado and was deposited in the state treasury to the credit of the interstate water litigation fund of the attorney general to the water conservation projects fund of the Kansas water office as prescribed by subsection (a)(2) of K.S.A. 82a-1801 and amendments thereto: *Provided*, That the state finance council shall have no authority to approve any transfer of moneys from the water conservation projects fund of the Kansas water office, to authorize or approve any expenditure of moneys from the water conservation projects fund of the Kansas water office, or to increase any expenditure limitation on the water conservation projects fund of the Kansas water office that would facilitate the expenditure of all or any part of the amount transferred to the water conservation projects fund of the Kansas water office pursuant to this subsection: *Provided further*, That no expenditures shall be authorized or made from the water conservation projects fund of the Kansas water office by the Kansas water office or any other state agency, except upon specific authorization therefor by appropriation act of the legislature.”;

On page 40, following line 24, by inserting the following:

“Ditch irrigation companies

For the fiscal year ending June 30, 2006..... \$112,500

*Provided*, That expenditures shall be made by the attorney general to reimburse ditch irrigation companies and individuals who contributed to initial litigation costs involving the dispute between Kansas and Colorado regarding the Arkansas River Compact.”;

Also on page 40, preceding line 36, by inserting the following:

“(d) On July 1, 2005, of the \$1,090,000 appropriated for the above agency for the fiscal year ending June 30, 2006, by section 86(a) of 2005 Senate Bill No. 225 from the state general fund in the additional operating expenditures for investigation and litigation regarding interstate water rights account, the sum of \$180,000 is hereby lapsed.”;

Also on page 40, in line 36, by striking “(d)” and inserting “(e)”; following line 43, by inserting the following:

“(f) On the effective date of this act, notwithstanding the provisions of K.S.A. 82a-1801, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$20,173,363 from the amount which was recovered by the state of Kansas from a settlement, judgment or decree in the litigation commenced in 1985 by the state of Kansas against the state of Colorado and was deposited in the state treasury to the credit of the interstate water litigation fund of the attorney general to the interstate water litigation reserve account of the state general fund, which is hereby created in the state general fund: *Provided*, That the amount transferred to the interstate water litigation reserve account of the state general fund pursuant to this subsection shall be reserved for purposes to be prescribed by law: *Provided further*, That the state finance council shall have no authority to approve any transfer of moneys from the interstate water litigation reserve account of the state general fund, to authorize or approve any expenditure of moneys from the interstate water litigation reserve account of the state general fund, or to increase any expenditure limitation on the interstate water litigation reserve account of the state general fund: *And provided further*, That no expenditures shall be authorized or made from the interstate water litigation reserve account of the state general fund by any state agency, except upon specific authorization thereof by appropriation act of the legislature.”;

On page 41, preceding line 7, by inserting the following:

“(b) In addition to the other purposes for which expenditures may be made by the judicial branch from the state general fund or any special revenue fund for fiscal year 2006 as authorized by section 93 of 2005 Senate Bill No. 225 or by this or other appropriation act of the 2005 regular session of the legislature, notwithstanding the provisions of K.S.A. 2004 Supp. 38-1552a or any other statute, expenditures may be made by the judicial branch from the state general fund or any special revenue fund for fiscal year 2006 to continue the pilot projects initiated pursuant to K.S.A. 2004 Supp. 38-1552a in accordance with the same provisions and guidelines prescribed therefor during fiscal year 2005.”;

Also on page 41, in line 12 by striking “\$436,682” and inserting “\$367,970”; in line 16, by striking “\$16,028,045” and inserting “\$15,828,045”; in line 23, by striking “\$2,000,000” and inserting “\$1,000,000”; preceding line 24, by inserting the following:

“Discretionary grants

For the fiscal year ending June 30, 2006..... \$375,000  
*Provided*, That the above agency shall make expenditures from the discretionary grants account for the fiscal year 2006, in an amount not less than \$187,500 for existing after school programs that target low income, at-risk children: *Provided further*, That such existing after school programs shall not be a part of any unified school district, or any other state agency or any political subdivision of the state: *And provided further*, That such programs shall not be eligible for such grants if any such program receives any state or federal child care subsidies: *And provided further*, That a unified school district shall have no administrative oversight over any such programs nor contribute any funding to any such program, except that this shall not exclude the unified school district from allowing any such program to use the unified school’s district property for the location of any such program.”;

Also on page 41, by striking all in lines 32 through 42;

By striking all on pages 42 through 53;

On page 54, by striking all in lines 1 through 22 and inserting the following:

“Sec. 82. (a) In addition to the other purposes for which expenditures may be made by the department of administration from the state general fund or any special revenue fund for fiscal year 2006 as authorized by section 88 of chapter 123 of the 2004 Session Laws of Kansas or section 98 of 2005 Senate Bill No. 225, expenditures shall be made by the department of administration from the state general fund or any special revenue fund for fiscal year 2006 to prepare a compliance report to be submitted to the committee on ways and means of the senate and the committee on appropriations of the house of representatives on or before the first day of the 2006 regular session of the legislature, which shall address the following:

(1) Compliance by all state agencies with the provisions of K.S.A. 75-4616, and amendments thereto; and

(2) the policies of the department of administration and each other state agency concerning the mileage at which state owned motor vehicles are sold or otherwise disposed of.

(b) On and after the effective date of this act, during the fiscal year ending June 30, 2005, and during the fiscal year ending June 30, 2006, no expenditures shall be made from any moneys appropriated for the department of administration or any state agency from the state general fund or any special revenue fund for fiscal year 2005 and fiscal year 2006 by chapter 123 or 184 of the 2004 Session Laws of Kansas or by 2005 Senate Bill No. 225 or by this or other appropriation act of the 2005 regular session of the legislature for purchase of motor vehicle fuel for state owned vehicles from fuel sellers who are exempt from payment of motor fuel vehicle tax, except that any such purchase is hereby authorized and may be made in the case of emergency.

Sec. 83. On and after the effective date of this act, during the fiscal year ending June 30, 2005, and during the fiscal year ending June 30, 2006, no expenditures shall be made from any moneys appropriated for any state agency from the state general fund or any special revenue fund for fiscal year 2005 and fiscal year 2006 by chapter 123 or 184 of the 2004 Session Laws of Kansas or by 2005 Senate Bill No. 225 or by this or other appropriation act of the 2005 regular session of the legislature for media advertising by any agency of the state of Kansas unless such advertising includes a disclosure that such advertising is funded, in whole or in part, by state taxpayer dollars, as the case may be.

Sec. 84.

STATE TREASURER

(a) During the fiscal year ending June 30, 2006, the aggregate of all amounts transferred by the director of accounts and reports to the services reimbursement fund of the state treasurer, pursuant to the provisos to the services reimbursement fund of the state treasurer in section 88(a) of 2005 Senate Bill No. 225, for expenses incurred for unemployment insurance benefit warrants issued and processed and electronic transactions processed for the department of labor payable from the employment security fund, from moneys made available to the state under section 903(d) of the federal social security act, as amended, and credited to the employment security fund shall not exceed \$451,000.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Special qualified manufacturer fund  
For the fiscal year ending June 30, 2006..... No limit

*Provided*, That, on the effective date of this act, notwithstanding the provisions of section 4 of 2005 House Bill No. 2265 or any other statute, the special qualified manufacturer fund is hereby established in the state treasury and shall be administered by the state treasurer for the purposes of 2005 House Bill No. 2265: *Provided further*, That, on June 1, 2005, and on the first day of each month that commences during fiscal year 2006, the secretary of commerce and the secretary of revenue shall consult and determine the amount of revenue received by the state from withholding taxes paid by each taxpayer that is a qualified manufacturer during the preceding month and then, jointly, shall certify the amount so determined to the director of accounts and reports and, at the same time as such certification is transmitted to the director of accounts and reports, shall transmit a copy of such certification to the director of the legislative research department: *And provided further*, That, upon receipt of each such certification, the director of accounts and reports shall transfer the amount certified from the state general fund to the special qualified manufacturer fund established by this subsection: *And provided further*, That, on or before the 10th day of each month commencing after the effective date of this act, the director of accounts and reports shall transfer from the state general fund to the special qualified manufacturer fund interest earnings based on: (1) The average daily balance of moneys in the special qualified manufacturer fund established by this subsection for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month: *And provided further*, That the moneys credited to the special qualified manufacturer fund established by this subsection from the withholding taxes paid by a qualified manufacturer shall be paid by the state treasurer to such qualified manufacturer on such dates as are mutually

agreed to by the secretary of commerce and the state treasurer, serving as paying agent in accordance with the terms of the agreement entered into pursuant to section 3 of 2005 house Bill No. 2265 by the secretary of commerce and such qualified manufacturer: *And provided further*, That not more than \$1,000,000 shall be paid from the special qualified manufacturer fund established by this subsection by the state treasurer to a qualified manufacturer: *And provided further*, That the words and phrases used in these provisos to the special qualified manufacturer fund established by this subsection shall have the meanings respectively ascribed thereto by section 2 of 2005 House Bill No. 2265, unless the context requires otherwise.

Sec. 85.

#### KANSAS HEALTH POLICY AUTHORITY

(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Operating expenditures	
For the fiscal year ending June 30, 2006.....	\$950,000
Business health partnership	
For the fiscal year ending June 30, 2006.....	\$500,000

(b) On January 1, 2006, there is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Health committee insurance fund	
For the fiscal year ending June 30, 2006.....	No limit
Health care database fee fund	
For the fiscal year ending June 30, 2006.....	No limit

(c) On January 1, 2006, the appropriation of all moneys credited to and available in the health committee insurance fund for the department of social and rehabilitation services for the fiscal year ending June 30, 2006, by section 111(b) of 2005 Senate Bill No. 225 is hereby lapsed.

(d) (1) During the fiscal year ending June 30, 2006, on or after January 1, 2006, and upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75- 3711c and amendments thereto, except that such approval also may be given while the legislature is in session, the secretary of social and rehabilitation services may transfer moneys appropriated for fiscal year 2006 from any account of the state general fund or any special revenue fund of the department of social and rehabilitation services to the appropriate account of the state general fund or special revenue fund of the department of administration for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of social and rehabilitation services and department of social and rehabilitation services to the Kansas health policy authority on January 1, 2006, pursuant to 2005 House Substitute for Senate Bill No. 272.

(2) During the fiscal year ending June 30, 2006, on or after January 1, 2006, and upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75- 3711c and amendments thereto, except that such approval also may be given while the legislature is in session, the Kansas health policy authority may transfer moneys appropriated for fiscal year 2006 from any account of the state general fund or any special revenue fund of the Kansas health policy authority to the appropriate account of the state general fund or the appropriate special revenue fund of the department of social and rehabilitation services for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of social and rehabilitation services and department of social and rehabilitation services to the Kansas health policy authority on January 1, 2006, pursuant to 2005 House Substitute for Senate Bill No. 272.

(e) (1) During the fiscal year ending June 30, 2006, on or after January 1, 2006, and upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75- 3711c and amendments thereto, except that such approval also may be given

while the legislature is in session, the secretary of health and environment may transfer moneys appropriated for fiscal year 2006 from any account of the state general fund or any special revenue fund of the department of health and environment to the appropriate account of the state general fund or special revenue fund of the Kansas health policy authority for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of health and environment and department of health and environment to the Kansas health policy authority on January 1, 2006, pursuant to 2005 House Substitute for Senate Bill No. 272.

(2) During the fiscal year ending June 30, 2006, on or after January 1, 2006, and upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto, except that such approval also may be given while the legislature is in session, the Kansas health policy authority may transfer moneys appropriated for fiscal year 2006 from any account of the state general fund or any special revenue fund of the Kansas health policy authority to the appropriate account of the state general fund or the appropriate special revenue fund of the department of health and environment for the purpose of facilitating or implementing the transfer of the powers, duties and functions from the secretary of health and environment and department of health and environment to the Kansas health policy authority on January 1, 2006, pursuant to 2005 House Substitute for Senate Bill No. 272.

Sec. 86. On July 1, 2005, section 150 of 2005 Senate Bill No. 225 is hereby amended to read as follows: Sec. 150. (a) On July 1, 2005, or as soon thereafter as moneys are available, notwithstanding the provisions of any other statute, the director of accounts and reports shall transfer the amount in each special revenue fund of each state agency in state government that is appropriated for the fiscal year ending June 30, 2006, by this or other appropriation act of the 2005 regular session of the legislature, and that is determined by the director of the budget as the aggregate amount of money in such special revenue fund representing the reduced expenditures in the amounts budgeted for salaries and wages and associated employer payroll contributions that are no longer required for that purpose and certified by the director of the budget to the director of accounts and reports, from such special revenue fund to the state general fund: *Provided*, That, in making each such certification, the director of the budget shall take into account the maximum prescribed by subsection (b), the approved budget for fiscal year 2006 and such other factors, limitations and considerations as are deemed applicable or appropriate by the director of the budget with respect to the particular special revenue fund and the state agency that is involved: *Provided further*, That, at the same time that each such certification is made by the director of the budget to the director of accounts and reports under this subsection (a), the director of the budget shall deliver a copy of such certification to the director of the legislative research department: *And provided further*, That the amount transferred from each such special revenue fund to the state general fund pursuant to this subsection (a) is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

(b) The aggregate of all of the amounts transferred from all such special revenue funds of state agencies in state government to the state general fund pursuant to subsection (a), shall not exceed \$7,800,000.

(c) The provisions of this section shall not apply to: (1) The health care stabilization fund of the health care stabilization fund board of governors; (2) any moneys held in trust in a trust fund or any other special revenue fund of any state agency; or (3) any moneys received from any agency or authority of the federal government or from any other federal source; or (4) any moneys credited to any special revenue fund of the state board of regents, Fort Hays state university, Kansas state university, Kansas state university extension systems and agriculture research programs, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, or Wichita state university.

Sec. 87. On July 1, 2005, section 150 of 2005 Senate Bill No. 225 is hereby repealed.”;

On page 1, in the title, in line 16, after "953a" by inserting ", section 150 of 2005 Senate Bill No. 225,";

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

DWAYNE UMBARGER  
JAY SCOTT EMLER  
JIM BARONE  
*Conferees on part of Senate*

MELVIN NEUFELD  
BRENDA LANDWEHR  
BILL FEUERBORN  
*Conferees on part of House*

Senator Umbarger moved the Senate adopt the Conference Committee Report on **S Sub for HB 2482**.

On roll call, the vote was: Yeas 28, Nays 11, Present and Passing 0, Absent or Not Voting 1.

Yeas: Apple, Barnett, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Goodwin, Haley, Jordan, Lee, McGinn, Morris, Ostmeyer, Pine, Reitz, Schmidt D, Schmidt V, Schoendorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Barone, Francisco, Gilstrap, Hensley, Huelskamp, Journey, Kelly, O'Connor, Palmer, Petersen, Pyle.

Absent or Not Voting: Allen.

The Conference Committee report was adopted.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **S Sub for HB 2482**. All state employees deserve the full 2.5% increase in pay. The budget that we have before us may favor some select groups, but it does not favor all of our state employees. With skyrocketing utility costs, health care expenses, and gasoline prices, these hardworking Kansans deserve additional money to maintain their current standard of living. They make sacrifices daily in their efforts to make Kansas a better place to live and raise a family. We owe them our gratitude and our support.

Reducing the state employee pay raise that the Governor originally proposed is not adequate or acceptable. I disagree with this change and firmly believe we owe all state employees a 2.5% pay increase. Until we can treat all state employees fairly and consistently, I cannot support any appropriation legislation.—JIM BARONE

Senators Francisco, Gilstrap, Hensley and Kelly request the record to show they concur with the "Explanation of Vote" offered by Senator Barone on **S Sub for HB 2482**.

#### MESSAGE FROM THE HOUSE

Announcing the House not adopts the conference committee report on **SB 142**, requests a conference and appoints Representatives Vickrey, Goico and Holland as fourth conferees on the part of the House.

The House adopts the conference committee report on **Substitute HB 2261**.

#### ORIGINAL MOTION

On motion of Senator Huelskamp, the Senate acceded to the request of the House for a conference on **SB 142**.

The President appointed Senators Huelskamp, O'Connor and Francisco as fourth conferees on the part of the Senate.

#### MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **SB 298**.

#### ORIGINAL MOTION

Senator D. Schmidt 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: **SB 298**.



**ORIGINAL MOTION**

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **SB 298**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 298**, submits the following report:

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

On page 1, by striking all in lines 21 through 43;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 21 and inserting:

“Section 1. K.S.A. 2004 Supp. 19-101a, as amended by section 8 of 2005 House Bill No. 2537, is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, 2006.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, 2006.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*, and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2004 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(33) Counties may not exempt from or effect changes in the wireless enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and amendments thereto.

(34) Counties may not exempt from or effect changes in K.S.A. 2004 Supp. 26-601, and amendments thereto.

(35) (A) *From and after November 15, 2005, counties may not exempt from or effect changes in the Kansas liquor control act except as provided by paragraph (B).*

(B) *From and after November 15, 2005, counties may adopt resolutions which are not in conflict with the Kansas liquor control act.*

(36) (A) *From and after November 15, 2005, counties may not exempt from or effect changes in the Kansas cereal malt beverage act except as provided by paragraph (B).*

(B) *From and after November 15, 2005, counties may adopt resolutions which are not in conflict with the Kansas cereal malt beverage act.*

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.”;

Also on page 4, in line 22, by striking “November 8, 2006” and inserting “November 15, 2005”; in line 35, by striking “or contrary to”;

On page 5, by striking all in lines 2 through 5; in line 6, by striking “(d)” and inserting “(c)”; in line 10, by striking “November 8, 2006” and inserting “November 15, 2005”; in line 31, by striking “February 6, 2007” and inserting “February 15, 2006”;

On page 6, in line 3, by striking “November 7, 2006” and inserting “November 15, 2005”; in line 10, by striking “November 8, 2006” and inserting “November 15, 2005”;

On page 8, in line 18, by striking “November 8, 2006” and inserting “November 15, 2005”;

On page 9, in line 28, by striking “November 8, 2006” and inserting “November 15, 2005”;

On page 10, in line 25, by striking “November 8, 2006” and inserting “November 15, 2005”;

On page 11, in line 4, by striking “November 8, 2006” and inserting “November 15, 2005”;

On page 12, by striking all of lines 39 through 43;

By striking all on pages 13 through 15;

On page 16, by striking all in lines 1 through 10 and inserting:

“New Sec. 9. (a) (1) The board of county commissioners of any county may, by resolution:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the unincorporated area of the county on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to allow such sale within the unincorporated area of the county on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the unincorporated area of the county on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to prohibit such sale within the unincorporated area of the county on Sunday, Memorial Day, Independence Day and Labor Day.

Such resolution shall be published once, within two weeks after its adoption, in the official county newspaper. Such resolution shall not become effective earlier than 60 days following the date of its publication or November 15, 2005, whichever is later. If, within 60 days following publication of the resolution, a petition requesting that a proposition be submitted for approval by the voters is filed in accordance with subsection (a)(2), such resolution shall not become effective until a proposition is submitted to and approved at an election as provided by this subsection (a).

(2) A petition to submit a proposition to the qualified voters of a county pursuant to this subsection (a) shall be filed with the county election officer. The petition shall be signed by qualified voters of the county who reside within the unincorporated area of the county equal in number to not less than 5% of the voters of the county residing within the unincorporated area of the county who voted for the office of president of the United States at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the unincorporated area of \_\_\_\_\_ county."

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the unincorporated area of \_\_\_\_\_ county and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day) within the unincorporated area of \_\_\_\_\_ county."

(3) Upon submission of a valid petition calling for an election pursuant to this subsection (a), the county commission shall call a special election to be held not later than 45 days after submission of the petition unless a countywide primary or general election is to be held within 90 days after submission of the petition, in which case the proposition shall be submitted at such countywide election. Thereupon, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the unincorporated area of the county at such election:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: "Within the unincorporated area of \_\_\_\_\_ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday)?"

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: "Within the unincorporated area of \_\_\_\_\_ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day)?"

(b) (1) The governing body of any city may, by ordinance:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the city on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to allow such sale within the city on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the city on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to prohibit such sale within the city on Sunday, Memorial Day, Independence Day and Labor Day.

Such ordinance shall be published at least once each week for two consecutive weeks in the official city newspaper. Such ordinance shall not become effective earlier than 60 days following the date of its publication or November 15, 2005, whichever is later. If, within 60 days following publication of the ordinance, a petition requesting that a proposition be

submitted for approval by the voters is filed in accordance with subsection (b)(2), such ordinance shall not become effective until a proposition is submitted to and approved at an election as provided by this subsection (b).

(2) A petition to submit a proposition to the qualified voters of a city pursuant to this subsection (b) shall be filed with the county election officer. The petition shall be signed by qualified voters of the city equal in number to not less than 5% of the voters of the city who voted for the office of president of the United States at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the city, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the city of \_\_\_\_\_."

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the city of \_\_\_\_\_ and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day) within the city of \_\_\_\_\_."

(3) Upon submission of a valid petition calling for an election pursuant to this subsection (b), the city governing body shall call a special election to be held not later than 45 days after submission of the petition unless a citywide primary or general election is to be held within 90 days after submission of the petition, in which case the proposition shall be submitted at such citywide election. Thereupon, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the city at such election:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the city, the following proposition shall be placed on the ballot: "Within the city of \_\_\_\_\_, shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday)?"

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the following proposition shall be placed on the ballot: "Within the city of \_\_\_\_\_, shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day)?"

(c) The county election officer shall transmit to the director a copy of the results of an election pursuant to this section.

(d) An election provided for by this section shall be called and held in the manner provided by the general bond law.;

Also on page 16, in line 11, by striking "November 8, 2006" and inserting "November 15, 2005";

On page 17, in line 3, by striking "November 8, 2006" and inserting "November 15, 2005";

On page 19, in line 15, by striking "November 8, 2006" and inserting "November 15, 2005"; in line 36, by striking "November 8, 2006" and inserting "November 15, 2005";

On page 24, by striking all of section 16 and inserting:

"Sec. 16. K.S.A. 41-308a and K.S.A. 2004 Supp. 19-101a, as amended by section 8 of 2005 House Bill No. 2537, are hereby repealed.;"

Also on page 24, in line 26, by striking "November 8, 2006" and inserting "November 15, 2005";

In the title, in line 16, by striking "19-101a,"; in line 17, after "41-719" by inserting "and K.S.A. 2004 Supp. 19-101a, as amended by section 8 of 2005 House Bill No. 2537,"; also in line 17, by striking "; also repealing"; in line 18, by striking all before the period;

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

JOHN T. EDMONDS  
ARLEN SIEGFRIED  
TOM BURROUGHS  
*Conferees on part of House*

PETE BRUNGARDT  
JOHN VRATIL  
MARK GILSTRAP  
*Conferees on part of Senate*

Senator Brungardt moved the Senate adopt the Conference Committee Report on **SB 298**.

On roll call, the vote was: Yeas 21, Nays 17, Present and Passing 1, Absent or Not Voting 1.

Yeas: Barone, Betts, Bruce, Brungardt, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Kelly, Lee, Morris, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Vratil, Wysong.

Nays: Apple, Barnett, Brownlee, Huelskamp, Journey, McGinn, O'Connor, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Teichman, Umbarger, Waggle, Wilson.

Present and Passing: Donovan.

Absent or Not Voting: Allen.

The Conference Committee report was adopted.

#### EXPLANATION OF VOTE

MR. PRESIDENT: **SB 298** recognizes the current option of cities and counties to authorize package liquor stores. The addition of cereal malt beverage allows retailers currently open on Sunday to sell beer. The bill is good public policy in alcohol administration and is a consumer convenience.—PETE BRUNGARDT

Senator Goodwin requests the record to show she concurs with the Explanation of Vote offered by Senator Brungardt on **SB 298**.

#### MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **SB 43**.

#### ORIGINAL MOTION

Senator D. Schmidt 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: **SB 43**.

#### ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **SB 43**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 43**, submits the following report:

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

On page 1, following line 16, by inserting:

"New Section 1. (a) Each school district shall compile and report expenditures of the district in providing programs required by law and the number of pupils enrolled in such

programs. Such information shall be compiled and reported in the manner required by the department.

(b) The department shall verify, on an on-going basis, expenditures of school districts in providing programs required by law and the number of pupils enrolled in such programs. Such verification may be conducted on a sample-basis of school districts.

New Sec. 2. As used in sections 3 through 9, and amendments thereto:

(a) "District" or "school district" means any school district which submits an application pursuant to section 4, and amendments thereto;

(b) "program" means the Kansas skills for success in school program;

(c) "department" means the Kansas department of education;

(d) "state board" means the state board of education; and

(e) "pupil" means any pupil in kindergarten or any of the grades one through three.

New Sec. 3. (a) Each school district shall determine each child's mathematics and reading skill-level and whether each child is progressing adequately in acquiring mathematics and reading skills for the child's grade-level. Districts shall use the grade-level standards and respective indicators adopted by the state board in making such determinations. Districts shall use state assessments or diagnostic assessments that meet the standards determined by the state board during kindergarten and each of the grades one through three to determine a child's level of performance and to target specialized instructional interventions, programs and strategies. A child's progress shall be assessed at least once each year. Annual diagnostic assessments shall meet the diagnostic assessment requirements of the department.

(b) A district shall include in each participating school's improvement plan research-based intervention programs or strategies and interventions determined by the district. District-determined interventions may include, but are not limited to, individualized instruction, alternative teaching methods, a restructured school day, extended time strategies and any other intervention the district deems necessary.

(c) If a child has been identified as needing assistance, the plan for the school shall create a mechanism to track the child's interventions and progress. The school shall determine the methods by which the child's progress is measured. When a child has achieved the appropriate skills for the child's grade-level, no further interventions shall be necessary unless the child falls behind in another grade. If the child does not achieve the appropriate skills for the child's grade-level despite intervention, the school shall take action to initiate additional interventions for the child to achieve such skills. When appropriate, districts are encouraged to utilize skilled and trained community-based organizations and individuals to implement intervention plans.

New Sec. 4. (a) Applications for grants under the program shall be prepared and submitted in the form and manner required by the state board. The application shall be accompanied by any information required by the state board.

(b) The amount of money awarded through a grant shall not exceed the amount of actual expenses incurred by the district in the establishment and maintenance of the district's plan of interventions. If a district is paid more than it is entitled to receive under the program, the state board shall notify the district of the amount of such overpayment, and such district shall remit the same to the state board. The state board shall remit any moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund. If any district fails so to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to the district. If any district is paid less than the amount to which it is entitled under any distribution made under this act, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year.

(c) The board of education of any district which is awarded a grant for an improvement plan shall make periodic and special reports to the state board of education as it may request.

New Sec. 5. (a) On or before January 1, 2006, the state board may adopt rules and regulations for the development and implementation of plans of intervention established under the program. The state board shall establish standards and criteria for reviewing,

evaluating and approving school improvement plans and applications for grants submitted by districts. All grants shall be awarded by the state board in accordance with the standards and criteria established by the state board. No district shall be eligible to receive a grant unless the district includes within its plan specific strategies for intervention.

(b) Upon request of a school district, the state board shall provide technical assistance regarding the establishment and maintenance of the improvement plan.

New Sec. 6. On or before September 1, 2006, the state board of education shall report its progress on the implementation of the Kansas skills for success in school program to the legislative educational planning committee. The state board shall submit other reports as requested by the chairperson of the legislative educational planning committee. On or before September 1, 2007, and each year thereafter, the state board shall make an annual report on the program to the legislative educational planning committee. Annual reports shall include data relating to and supporting evaluations of goals, objectives and outcomes established by the state board. On or before the first day of the legislative session in 2007, and each year thereafter, the legislative educational planning committee shall prepare and submit to the legislature a report on the program and any recommendations relating thereto.

New Sec. 7. (a) In school year 2006-2007 and in each school year thereafter, subject to the limits of appropriations therefore, the state board may award grants to districts whose applications have been approved by the state board pursuant to the skills for success program.

(b) Moneys awarded through grants authorized by this section shall be distributed proportionately among districts receiving such grants on a per pupil basis.

(c) Moneys received by a district under subsection (a) shall be credited to the skills for success in school fund of the district established pursuant to section 9, and amendments thereto.

New Sec. 8. Any appropriations for the implementation of the provisions of sections 2 through 8, and amendments thereto, shall not exceed \$20,000,000, in the aggregate, from one or more funds in the state treasury.

New Sec. 9. (a) There is hereby established in every district a fund which shall be called the skills for success in school fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. Notwithstanding any other provision of law, all moneys received by the district pursuant to the skills for success in school program shall be credited to the skills for success in school fund established by this section. The expenses of a district directly attributable to the establishment and maintenance of the district's plan of interventions shall be paid from the skills for success in school fund.

(b) Any balance remaining in the skills for success in school fund at the end of the budget year shall be carried forward into the skills for success in school fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the skills for success in school fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

New Sec. 10. (a) There is hereby established in every district a fund which shall be called the preschool-aged at-risk education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. Notwithstanding any other provision of law, all moneys received by the district from whatever source for preschool-aged at-risk assistance plans or programs shall be credited to the preschool-aged at-risk education fund established by this section. The expenses of a district directly attributable to providing preschool-aged at-risk assistance or programs shall be paid from the preschool-aged at-risk education fund.

(b) Any balance remaining in the preschool-aged at-risk education fund at the end of the budget year shall be carried forward into the preschool-aged at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the preschool-aged at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the



information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

New Sec. 11. (a) Except as provided by subsection (b), school facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget in an amount equal to the state prescribed percentage 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.

(b) School facilities weighting may be assigned to the enrollment of a district which adopted a local option budget in an amount which is not less than 25%, if the issuance of bonds to finance such facilities has been approved at an election held on or before June 30, 2005.

New Sec. 12. (a) As used in this section, "school district" or "district" means a school district authorized to make a levy under this section.

(b) The board of education of any district may levy a tax on the taxable tangible property within the district for the purpose of financing the costs incurred by the state that are attributable directly to assignment of the cost of living weighting to the enrollment of the district. There is hereby established in every school district a fund which shall be called the cost of living fund, which fund shall consist of all moneys deposited therein or transferred thereto in accordance with law. All moneys derived from a tax imposed pursuant to this section shall be credited to the cost of living fund. The proceeds from the tax levied by a district credited to the cost of living fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(c) The state board of education shall determine whether a district may levy a tax under this section as follows:

(1) Determine the statewide average appraised value of single family residences for the calendar year preceding the current school year;

(2) multiply the amount determined under (1) by 1.25;

(3) determine the average appraised value of single family residences in each school district for the calendar year preceding the current school year; and

(4) subtract the amount determined under (2) from the amount determined under (3). If the amount determined for the district under (4) is a positive number and the district is authorized to adopt and has adopted a local option budget in an amount equal to the state prescribed percentage in the current school year, the district qualifies for assignment of cost of living weighting and may levy a tax on the taxable tangible property of the district for the purpose of financing the costs that are attributable directly to assignment of the cost of living weighting to enrollment of the district.

(d) Except as provided by subsection (e), no tax may be levied under this section unless the board of education adopts a resolution authorizing such a tax levy and publishes the resolution at least once in a newspaper having general circulation in the district. Except as provided by subsection (e), the resolution shall be published in substantial compliance with the following form:

Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to levy an ad valorem tax in an amount not to exceed the amount necessary to finance the costs attributable directly to the assignment of cost of living weighting to the enrollment of the district. The ad valorem tax authorized by this resolution may be levied unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after the publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether the levy of such a tax shall be authorized in accordance with the provisions of this resolution to the electors of the school district at the

next general election of the school district, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, (year)\_\_\_\_\_.

\_\_\_\_\_  
Clerk of the board of education.

All of the blanks in the resolution shall be filled. If no petition as specified above is filed in accordance with the provisions of the resolution, the resolution authorizing the ad valorem tax levy shall become effective. If a petition is filed as provided in the resolution, the board may notify the county election officer to submit the question of whether such tax levy shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and of no force and effect and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If a majority of the votes cast in an election conducted pursuant to this provision are in favor of the resolution, such resolution shall be effective on the date of such election. If a majority of the votes cast are not in favor of the resolution, the resolution shall be deemed of no effect and no like resolution shall be adopted by the board within the nine months following such election.

(e) Any resolution adopted pursuant to this section for school year 2005-2006 shall not be subject to the provisions of subsection (d) relating to publication, protest or election.

New Sec. 13. (a) As used in this section:

(1) "School district" or "district" means a school district which: (A) Has an extraordinary declining enrollment; and (B) has adopted a local option budget in an amount which equals the state prescribed percentage under K.S.A. 72-6433, and amendments thereto.

(2) "Extraordinary declining enrollment" means an enrollment which has declined during the preceding three school years at a rate of at least 15% per year or by at least 150 pupils per year.

(b) (1) A school district may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state board of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of extraordinary declining enrollment weighting to enrollment of the district. The state board of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the difference between the amount of replacing revenues lost as a result of the declining enrollment of the district.

(2) The board of tax appeals shall certify to the state board of education the amount authorized to be produced by the levy of a tax under subsection (a).

(c) A district may levy the tax authorized pursuant to this section for a period of time not to exceed two years unless authority to make such levy is renewed by the state board of tax appeals. The state board of tax appeals may renew the authority to make such levy for periods of time not to exceed two years.

(d) There is hereby established in every district a fund which shall be called the declining enrollment fund. Such fund shall consist of all moneys deposited therein or transferred thereto according to law. The proceeds from the tax levied by a district under authority of this section shall be credited to the declining enrollment fund of the district. The proceeds from the tax levied by a district credited to the declining enrollment fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

New Sec. 14. (a) As used in this section:

(1) "School district" or "district" means a school district which has an extraordinary declining enrollment.

(2) "Extraordinary declining enrollment" means an enrollment which has declined during the preceding three school years at a rate of at least 5% per year or by at least 50 pupils per year.

(3) "Joint committee" means the joint committee on state building construction.

(b) The board of education of any school district shall not authorize the issuance of any bonds for the construction of a new building without having first advised and consulted with the joint committee. Prior to the date of the hearing of the joint committee at which the board is scheduled to appear, the board shall submit any information requested by the joint committee. Following such hearing, the committee shall make a recommendation on the advisability of the proposed issuance of bonds. A copy of the committee's recommendation shall be provided to the school district and to the state board of education within 15 days of the date of the hearing.

(c) If the joint committee recommends against the issuance of any bonds for the construction of a new building and if the district proceeds to issue bonds for such construction, the district shall not be entitled to, and shall not receive, state aid for such bonds under K.S.A. 75-2319, and amendments thereto unless approved by the state board.

(d) The provisions of this section shall not apply to any district which is not entitled to state aid under K.S.A. 75-2319, and amendments thereto.

New Sec. 15. The appropriation of moneys necessary to pay general state aid and supplemental general state aid under the school district finance and quality performance act and state aid for the provision of special education and related services under the special education for exceptional children act shall be given first priority in the legislative budgeting process and shall be paid first from existing state revenues.

Sec. 16. K.S.A. 2004 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  $\frac{5}{6}$  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  $\frac{5}{6}$  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 detention 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) (A) *Subject to the provisions of paragraph (1)(B)*, 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~~ *paragraph (1)*, the number of pupils regularly enrolled in the district on September 20; (B) *a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the district for at least one semester or two quarters or the equivalent thereof;*

(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 *or section 2 of 2005 House Bill No. 2059*, and amendments thereto.

(f) "Adjusted enrollment" means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, ~~correlation~~ *extraordinary declining enrollment* weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, *cost of living 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.~~ "Cost of living weighting" means an addend component assigned to enrollment of districts to which the provisions of section 12, and amendments thereto, apply on the basis of costs attributable to the extraordinary cost of living in the district.

(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.

(q) "Extraordinary declining enrollment weighting" means an addend component assigned to enrollment of districts to which the provisions of section 13, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.

Sec. 17. K.S.A. 72-6433 is hereby amended to read as follows: 72-6433. (a) (1) The board of any district may adopt a local option budget in each school year in an amount not to exceed an amount equal to the district prescribed percentage of the amount of state financial aid determined for the district in the school year. As used in this section, "district prescribed percentage" means:

(A) For any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, do not apply in the current school year, in the 2001-02 school year and in each school year thereafter, a percentage that is equal to 80% of the percentage specified in the resolution under which the district was authorized to adopt a local option budget in the 1996-97 school year;

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

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

(D) for any district to which the provisions of K.S.A. 72-6444, and amendments thereto, applied in the 1997-98 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, do not apply in the current school year because an increase in the amount budgeted by the district in its local option budget as authorized by a resolution adopted under the provisions of subsection (b) causes the actual amount per pupil budgeted by the district in the preceding school year as determined for the district under provision (1) of subsection (a) of K.S.A. 72-6444, and amendments thereto, to equal or exceed the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district's enrollment group, a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year if the resolution authorized the district to increase its local option budget on a continuous and permanent basis. If the resolution that authorized the district to increase its local option budget specified a definite period of time for which the district would retain its authority to increase the local option budget and such authority lapses at the conclusion of such period and is not renewed, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution unless the loss of the percentage of increase that was authorized by the resolution would cause the actual amount per pupil budgeted by the district to be less than the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district's enrollment group, in which case, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution plus a percentage which shall be computed for the district by the state board in accordance with the provisions of K.S.A. 72-6444, and amendments thereto, except that, in making the determination of the actual amount per pupil budgeted by the district in the preceding school year, the state board shall exclude the percentage of increase that was authorized by the resolution.

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

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

Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas.

RESOLUTION

Be It Resolved that:

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

CERTIFICATE

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

\_\_\_\_\_  
Clerk of the board of education.

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

term "authorized to adopt a local option budget" means that a district has adopted a resolution under this subpart, has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the adoption of a local option budget was approved.

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

(b) The provisions of this subsection (b) shall be subject to the provisions of K.S.A. 72-6433a, and amendments thereto.

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

(2) No district may increase a local option budget under authority of this subsection until: (A) A resolution authorizing such an increase is passed by the board and published once in a newspaper having general circulation in the district; or (B) the question of whether the board shall be authorized to increase the local option budget has been submitted to and approved by the qualified electors of the district at a special election called for the purpose. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto, for the noticing, calling and holding of elections upon the question of issuing bonds under the general bond law. The notice of such election shall state the purpose for and time of the election, and the ballot shall be designed with the question of whether the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year. If a majority of the qualified electors voting at the election approve authorization of the board to increase the local option budget, the board shall have such authority. If a majority of the qualified electors voting at the election are opposed to authorization of the board to increase the local option budget, the board shall not have such authority and no like question shall be submitted to the qualified electors of the district within the nine months following the election.

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

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

(4) A resolution authorizing an increase in the local option budget of a district shall state that the amount of the local option budget may be increased as authorized by the resolution unless a petition in opposition to such increase, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home



county of the school district within 30 days after publication. If no petition is filed in accordance with the provisions of the resolution, the board is authorized to increase the local option budget of the district. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether the board shall be authorized to increase the local option budget of the district. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

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

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

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

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

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

(9) As used in this subsection:

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

(B) "State prescribed percentage" means ~~25%~~ 27% for school year 2005-2006, 29% for school year 2006-2007 and 30% for school year 2007-2008 and each school year thereafter.

(c) To the extent the provisions of the foregoing subsections conflict with this subsection, this subsection shall control. Any district that is authorized to adopt a local option budget

in the 1997-98 school year under a resolution which authorized the adoption of such budget in accordance with the provisions of this section prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

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

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

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

(4) Any unexpended and unencumbered cash balance remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be disposed of as provided in this subsection. If the district did not receive supplemental general state aid in the school year and the board of the district determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If the board of such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, transferred or expended the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the cash balance remaining in the supplemental general fund by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district. The amount remaining in the supplemental general fund may be maintained in such fund or transferred to the general fund of the district.

(e) *To the extent the provisions of the foregoing section conflict with this subsection, this subsection shall control. Any district that adopted or was authorized to adopt a local option budget for school year 2004-2005 in an amount equal to 25% may adopt a local option budget for school year 2005-2006 in an amount not to exceed the state prescribed percentage in effect on July 1, 2005, by adoption of a resolution. Such resolution shall not be subject to the provisions of this section relating to publication, protest or election.*

Sec. 18. K.S.A. 72-6438 is hereby amended to read as follows: 72-6438. (a) The state school district finance fund, established by K.S.A. 1991 Supp. 72-7081 prior to its repeal by ~~this~~ the school district finance and quality performance act, is hereby continued in existence

and shall consist of (1) all moneys credited to such fund under K.S.A. 72-6418 ~~and~~ 72-6431 ~~and K.S.A.~~ 72-6441 *and sections 12 and 13*, and amendments thereto, and (2) all amounts transferred to such fund.

(b) The state school district finance fund shall be used for the purpose of school district finance and for no other governmental purpose. It is the intent of the legislature that the fund shall remain intact and inviolate for such purpose, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(c) Amounts in the state school district finance fund shall be allocated and distributed to school districts as a portion of general state aid entitlements provided for under this act.

Sec. 19. K.S.A. 72-6405 is hereby amended to read as follows: 72-6405. (a) K.S.A. 72-6405 through 72-6440 and the provisions of *2005 House Bill No. 2247 and sections 1 through 18 of this act*, and amendments thereto, shall be known and may be cited as the school district finance and quality performance act.

(b) The provisions of ~~this act~~ *the school district finance and quality performance act* are severable. If any provision of ~~this~~ *that act* is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of ~~this~~ *such act* without such invalid or unconstitutional provision.

Sec. 20. K.S.A. 74-32,101 is hereby amended to read as follows: 74-32,101. As used in this act:

(a) "Executive officer" means the chief executive officer of the state board of regents appointed under K.S.A. 74-3203a, and amendments thereto;

(b) "qualified student" means a person who: (1) Is a resident of the state of Kansas; (2) has been accepted for admission to or is enrolled full time in a course of instruction leading to ~~certification~~ *licensure* as a teacher; and (3) has qualified for the award of a scholarship under the teacher service scholarship program on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified for renewal of the scholarship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled;

(c) "hard-to-fill teaching discipline" means (1) a teaching discipline in which there is a critical shortage of teachers as determined and specified by the state board of education; *and (2) the teaching disciplines of mathematics and science for any of the grades five through 12; and*

(d) "underserved area" means a geographic area of the state in which there is a critical shortage of teachers as determined and specified by the state board of education.

Sec. 21. K.S.A. 74-32,102 is hereby amended to read as follows: 74-32,102. (a) There is hereby established the teacher service scholarship program. A scholarship may be awarded under the teacher service scholarship program to any qualified student and may be renewed for each such student who remains qualified for the scholarship. Determination of the students qualified for such scholarships shall be made by the executive officer. Scholastic ability shall be determined on the basis of any one or more of the following: (1) High ACT or SAT score; (2) rank in high school graduation class; (3) cumulative high school or college grade point average; or (4) any other indicator of scholastic ability which the state board of regents determines to be demonstrative of potential for successful completion of a course of instruction leading to ~~certification~~ *licensure* as a teacher. To the extent practicable and consistent with qualification factors, consideration shall be given to *qualified* students who are members of ethnic minority groups.

(b) A scholarship awarded under the program shall provide for payment to a qualified student of (1) an amount not to exceed 70% of the cost of attendance for an academic year at the teacher education school in which the qualified student is enrolled if such teacher education school is maintained by a state educational institution or (2) an amount not to exceed 70% of the average amount of the cost of attendance for an academic year at the teacher education schools maintained by the state educational institutions if the teacher education school in which the qualified student is enrolled is not a state educational institution. A qualified student may be awarded a scholarship for not more than four academic years of undergraduate study, except that a qualified student who is enrolled full time in a course of instruction leading to ~~certification~~ *licensure* in a teaching discipline for which

graduate study is required may be awarded a scholarship for the duration of the course of instruction.

New Sec. 22. (a) If a petition is filed in a district court of this state alleging a violation of Article 6 of the Kansas constitution, the chief judge of such district court shall notify the chief justice of the supreme court of such petition within three business days thereafter.

(b) Within three business days of receiving such notice, the chief justice shall notify the chief judge of the court of appeals. Within 10 business days of receiving notice by the chief justice, the chief judge shall appoint a panel of three current or retired district court judges to preside over such civil action. The chief judge shall designate one of such judges to be the presiding judge of the panel. The judicial panel shall be considered a court of competent jurisdiction to hear and decide the civil action.

(c) The judicial panel shall establish venue pursuant to section 23, and amendments thereto.

New Sec. 23. (a) In any action alleging a violation of Article 6 of the Kansas constitution, venue shall be brought in the county as designated by the three judge panel appointed pursuant to section 22, and amendments thereto. In making such designation, the judicial panel shall consider the location of the parties and the witnesses.

Sec. 24. K.S.A. 2004 Supp. 60-2102 is hereby amended to read as follows: 60-2102. (a) *As of right*. Except for any order or final decision of a district magistrate judge, the appellate jurisdiction of the court of appeals may be invoked by appeal as a matter of right from:

(1) An order that discharges, vacates or modifies a provisional remedy.

(2) An order that grants, continues, modifies, refuses or dissolves an injunction, or an order that grants or refuses relief in the form of mandamus, quo warranto or habeas corpus.

(3) An order that appoints a receiver or refuses to wind up a receivership or to take steps to accomplish the purposes thereof, such as directing sales or other disposal of property, or an order involving the tax or revenue laws, the title to real estate, the constitution of this state or the constitution, laws or treaties of the United States.

(4) A final decision in any action, except in an action where a direct appeal to the supreme court is required by law. In any appeal or cross appeal from a final decision, any act or ruling from the beginning of the proceedings shall be reviewable.

(b) The appellate jurisdiction of the supreme court may be invoked by appeal as a matter of right from a preliminary or final decision in which a statute of this state has been held unconstitutional as a violation of Article 6 of the Kansas constitution *pursuant to section 22, and amendments thereto*. Any appeal filed pursuant to this subsection shall be filed within 30 days of the date the preliminary or final decision is filed ~~or within 30 days of the effective date of this act, whichever is later. The provisions of this subsection shall expire on July 1, 2006.~~

(c) *Other appeals*. When a district judge, in making in a civil action an order not otherwise appealable under this section, is of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, the judge shall so state in writing in such order. The court of appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within 10 days after the entry of the order under such terms and conditions as the supreme court fixes by rule. Application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or an appellate court or a judge thereof so orders.”;

By renumbering “Section 1” as “Sec. 25”;

On page 5, by striking all in lines 1, 2 and 3; following line 3, by inserting:

“Sec. 26. K.S.A. 8-272, 72-6405, 72-6433, 72-6438, 74-32,101 and 74-32,102 and K.S.A. 2004 Supp. 60-2102 and 72-6407 are hereby repealed.

Sec. 27. On July 1, 2005, K.S.A. 72-6405, as amended by section 44 of 2005 House Bill No. 2247, 72-6433, as amended by section 23 of 2005 House Bill No. 2247, and K.S.A. 2004 Supp. 72-6407, as amended by section 1 of 2005 House Bill No. 2059, 72-6407, as amended by section 12 of 2005 House Bill No. 2247, 74-32,101, as amended by section 11 of 2005 Senate Bill No. 48, 74-32,102, as amended by section 12 of 2005 Senate Bill No. 48, and sections 1, 19, 28, 29, 31 and 34 through 40 of 2005 House Bill No. 2247 are hereby repealed.

Sec. 28. This act shall take effect and be in force from and after its publication in the Kansas register.”;

On page 1, in the title, by striking all in lines 12, 13 and 14; following line 14, by inserting: “AN ACT concerning education; concerning school finance; concerning certain funds and the use of revenue therein; concerning persons preparing to teach in schools; concerning litigation relating to school finance; amending K.S.A. 8-272, 72-6405, 72-6433, 72-6438, 74-32,101 and 74-32,102 and K.S.A. 2004 Supp. 60-2102 and 72-6407; also repealing K.S.A. 72-6405, as amended by section 44 of 2005 House Bill No. 2247, 72-6433, as amended by section 23 of 2005 House Bill No. 2247, 74-32,101 as amended by section 11 of 2005 Senate Bill No. 48, and 74-32,102, as amended by section 12 of 2005 Senate Bill No. 48, and K.S.A. 2004 Supp. 72-6407, as amended by section 12 of 2005 House Bill No. 2247, 72-6407, as amended by section 1 of 2005 House Bill No. 2059, and sections 1, 19, 28, 29, 31 and 34 through 40 of 2005 House Bill No. 2247.”;

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

KATHE DECKER

MICHAEL O’NEAL

BRUCE LARKIN

*Conferees on part of House*

JEAN KURTIS SCHODORF

JOHN VRATIL

JANIS K. LEE

*Conferees on part of Senate*

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 43**. On roll call, the vote was: Yeas 37, Nays 2, Present and Passing 0, Absent or Not Voting

1.

Yeas: Apple, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Gilstrap, Goodwin, Haley, Hensley, Huelskamp, Jordan, Journey, Kelly, Lee, McGinn, Morris, Ostmeyer, Palmer, Petersen, Pine, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wilson, Wysong.

Nays: Francisco, O’Connor.

Absent or Not Voting: Allen.

The Conference Committee report was adopted.

#### **REPORT ON ENGROSSED BILLS**

**SB 266** reported correctly re-engrossed April 30, 2005.

#### **MESSAGE FROM THE HOUSE**

Announcing adoption of **HCR 5020**.

#### **INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS**

The following concurrent resolution was introduced and read by title

HOUSE CONCURRENT RESOLUTION No. 5020—

By Representatives Mays and McKinney

A CONCURRENT RESOLUTION relating to the 2005 regular session of the legislature and providing for an adjournment thereof.

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the legislature shall adjourn at the close of business of the daily session convened on April 30, 2005, until the hour of 10:00 a.m. on May 20, 2005, at which time the legislature shall reconvene and shall continue in session until sine die adjournment at the close of business on May 20, 2005; and

*Be it further resolved:* That the chief clerk of the house of representatives and the secretary of the senate and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during such period of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

*Be it further resolved:* That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in subsections (a) and (b) of K.S.A. 46-137a and amendments thereto for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

*Be it further resolved:* That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law or by the President of the Senate, the Speaker of the House of Representatives or the Legislative Coordinating Council during the period of adjournment for which members are not authorized per diem compensation and subsistence allowances pursuant to K.S.A. 46-137a and amendments thereto, shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212 and amendments thereto.

On emergency motion of Senator D. Schmidt **HCR 5020** was adopted by voice vote.

On motion of Senator D. Schmidt, and in compliance with **HCR 5020**, the Senate adjourned until Sine Die, 10:00 a.m., Friday, May 20, 2005.

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

PAT SAVILLE, *Secretary of the Senate.*

