

# Journal of the House

SIXTY-FIRST DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Monday, May 1, 2006, 11:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.  
The roll was called with 123 members present.  
Reps. Goico and Kiegerl were excused on excused absence by the Speaker.

Prayer by Chaplain Chamberlain:

Glory be to you, O God. Praised be your name forever.

Lord, when your people journeyed in a strange land, you were with them. When they were captive and lifted their voices to you in supplication, you heard their prayers and delivered them from bondage. When they wandered in the desert, you guided them with a pillar of fire and smoke. It was you alone who provided the people with all that they needed: with manna and quail, with covenant and hope, with commandment and community.

You have provided us all that we need as well, O God. Everything that we need for the journey is already ours.

Today, as people in our country demonstrate on behalf of those who journey from other lands, remind us that we are all sojourners. Help us to discover ways in which we can be a welcoming people and a lawful people; ways in which we can encourage those who dream of a better life in the land of the free and ways we can teach a respect for the laws that make our freedom possible. We know that there are no easy answers, Lord, but like those who were enslaved in Egypt, we trust that through you and in your will we will find our way to a just and holy life.

Blessed be your name for ever and ever. Amen.

The Pledge of Allegiance was led by Rep. Kinzer.

On motion of Rep. Aurand, the House recessed until 11:45 a.m.

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## LATE MORNING SESSION

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

### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

**HB 3021**, An act making and concerning appropriations for the fiscal years ending June 30, 2006, June 30, 2007, June 30, 2008, June 30, 2009, June 30, 2010, and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2005 Supp. 79-2959, as amended by section 160 of 2006 Senate Bill No. 480, and repealing the existing section, was considered on final action.

Call of the House was demanded.

On roll call, the vote was: Yeas 64; Nays 58; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Beamer, Bethell, Brown, Brunk, Burgess, Carlson, Carter, Craft, Dahl, DeCastro, Decker, Edmonds, Faber, Freeborn, George, Gordon, Grange, Hayzlett, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Hutchins, Huy, D. Johnson, E. Johnson, Kelsey, Kilpatrick, Kinzer, Knox, Krehbiel, Landwehr, Light, Mast, Masterson, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Neal, Oharah, Olson, Otto, Peck, Pilcher-Cook, Pottorff, Powell, Powers, Schwab, Schwartz, Shultz, Siegfried, Tafanelli, Vickrey, Watkins, Weber, Yoder.

Nays: Ballard, Burroughs, Carlin, Colloton, Cox, Crow, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, Grant, Hawk, Henderson, Henry, Hill, Holland, Huff, Huntington, Kelley, Kirk, Kuether, Lane, Loganbill, Long, Loyd, Lukert, Mah, McKinney, Menghini, M. Miller, O'Malley, Owens, Pauls, Peterson, Phelps, Proehl, Roth, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Sloan, Storm, Svaty, Swenson, Thull, Treaster, Trimmer, Ward, Wilk, Williams, Winn, Wolf, Yonally.

Present but not voting: None.

Absent or not voting: Davis, Goico, Kiegerl.

The bill passed, as amended.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: I vote no on **HB 3021**. A budget is more than just an allocation of money. It is also an expression of values. In crafting this budget, we could find nearly \$2.3 million to fund a new livestock barn at the State Fairgrounds, but somehow could not come up with \$2 million to fund the business health partnership, or \$3.5 million to provide health coverage for Kansas children under age five.

Rising health care costs are causing serious challenges for our state's families and our businesses. This budget puts off action, yet again, for another day. Many of our families and businesses cannot afford another delay.—BILL FEUERBORN, BONNIE SHARP, DOUG GATEWOOD, JERRY WILLIAMS, TOM SAWYER, BARBARA BALLARD, BOB GRANT, JIM WARD, MELODY C. MILLER

MR. SPEAKER: It is fiscally irresponsible to vote on the omnibus appropriations bill that adds millions of additional dollars to the State General Fund budget when we have not yet fulfilled our constitutional duty of funding education. I vote no on **HB 3021**.—TERRIE W. HUNTINGTON, KAY WOLF

MR. SPEAKER: I vote no on **HB 3021**. With school finance and business tax cuts still to be resolved, this budget spends a great deal of available money that should be going toward those goals. This spending will leave us ill-equipped to meet our responsibility to our children and to our state's economic well-being.—HAROLD LANE

MR. SPEAKER: I vote no on **HB 3021**. This reduces ending balances by \$410 million, jeopardizing tax cuts agreed to by this body to further encourage economic development in our state.—JUDITH LOGANBILL, ANN E. MAH, TOM THULL, MARK TREASTER

MR. SPEAKER: I began by voting "No" on **HB 3021** because I believe that school funding should have been resolved prior to our moving forward with the bill; however, having watched the Omnibus process for twelve years, I recognize that sending this bill back to committee usually does not yield the desired results as it is just one step in the process. Therefore, I changed my vote to "Yes" so the process may move forward in recognition that the final decisions are made through the negotiation process in the conference committee and the Conference Committee Report can be rejected if this issue is not resolved.—DEENA HORST

MR. SPEAKER: I want to vote yes, and move this process forward to adjournment, but I cannot. Law enacted just last year requires "the appropriation of moneys necessary to pay (school finance) shall be given first priority in the legislative budgeting process and shall be paid first from existing state revenues." KSA 2005 Supp 72-64c03. The House passed **HB 2986** on March 29, which requires \$2.863 million general state aid for FY 2006-2007. This bill does not appropriate the funding, and violates current state law; so, I vote no on **HB 3021**. Let's provide constitutional school funding and go home.—WARD LOYD

On motion of Rep. Aurand, the House recessed until 2:00 p.m.

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### AFTERNOON SESSION

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

On motion of Rep. Aurand, the House recessed until 3:30 p.m.

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### LATE AFTERNOON SESSION

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

#### MESSAGE FROM THE SENATE

The Senate concurs in House amendments to **H. Sub. for SB 84**, and requests return of the bill.

The Senate adopts conference committee report on **HB 2122**.

The Senate adopts conference committee report on **S. Sub. for HB 2366**.

The Senate adopts conference committee report on **HB 2554**.

The Senate adopts conference committee report on **HB 2710**.

#### INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6034—

By Representatives DeCastro, Brunk, Dillmore, Faust-Goudeau, Flaharty, Garcia, Goico, Huebert, Huy, E. Johnson, Landwehr, Loganbill, Masterson, McKinney, McLeland, M. Miller, Myers, Pottorff, Powers, Sawyer, Swenson, Thull, Ward, Watkins and Williams

A RESOLUTION congratulating and commending the 2005-2006 Wichita State University mens basketball team and Head Coach Mark Turgeon.

WHEREAS, The Wichita State University mens basketball team was the Missouri Valley Conference champion this year, the first time since 1983, and was selected as an at-large participant in the 2006 NCAA national basketball tournament; and

WHEREAS, At the big dance the team surprised most of America by defeating Seton Hall 86 to 66 and Tennessee 80 to 73. The team advanced to the Sweet 16 but was defeated by George Mason, a Final Four participant, 63 to 55 in the Washington, D.C. regional tournament. The team ended the season ranked number 21 in the final ESPN/USA Today Coaches Poll—the first top 25 rating for the team since 1984; and

WHEREAS, Paul Miller was named an honorable mention All-American, as well as the Missouri Valley Conference Player of the Year. He was also named as a first team Scholar-Athlete. P.J. Cousinard and Kyle Wilson were both honorable mentions to the All-Missouri Valley Conference team, Karon Bradley was selected to the Missouri Valley Conference All-Newcomer team and Ryan Martin to the All-Missouri Valley Conference Bench team; and

WHEREAS, Head Coach Mark Turgeon was named the Missouri Valley Conference Rawlings Coach of the Year and is the only Shocker coach to improve his win record for five consecutive years: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we congratulate and commend the 2005-2006 Wichita State University mens basketball team and Head Coach Mark Turgeon upon being the Missouri Valley Conference champion and in advancing in the NCAA national tournament to the Sweet 16, and wish them continued success in the future.

**INTRODUCTION OF ORIGINAL MOTIONS**

In accordance with subsection (b) of House Rule 1309, Rep. Swenson moved that **SB 508** be withdrawn from Committee on Federal and State Affairs and be placed on the calendar under the order of business General Orders.

(The Chief Clerk of the House of Representatives is requested to read this motion and cause it to be printed in the Calendar of May 2, 2006, under the order of business "Consideration of Motions and House Resolutions Offered on a Previous Day" as provided by House Rule 1309 (b).)

**INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Aurand, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 498, SB 512; Sub. SB 486; Sub. HB 2706; HB 2893, HB 3004; SB 164, SB 528.**

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 332**, 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, in line 38, by striking "to 75-6511, inclusive" and inserting "through 75-6511";

On page 2, in line 3, by striking "to 75-6511, inclusive" and inserting "through 75-6511"; in line 8, by striking "to 75-3744, inclusive" and inserting "through 75-3744"; in line 23, by striking "to 75-3744, inclusive" and inserting "through 75-3744"; by striking all in lines 35 through 37 and inserting the following:

"(e) The state board of regents may enter into one or more group insurance contracts to provide health and accident insurance coverage or health care services of a health maintenance organization for all students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, and such students' dependents, except that such insurance shall not provide coverage for elective procedures that are not medically necessary as determined by a treating physician. The participation by a student in such coverage shall be voluntary. In the case of students who are employed by a state educational institution in a student position, the level of employer contributions toward such coverage shall be determined by the board of regents. The board of regents may adopt rules and regulations necessary to administer and implement the provisions of this section.

Sec. 2. K.S.A. 2005 Supp. 75-6501 is hereby amended to read as follows: 75-6501. (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program.

(b) The state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, nonmedical remedial care and treatment rendered in accordance with a religious method of healing and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including but not limited to qualifications for benefits, services covered, schedules and graduation of benefits, conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by the commission.

(c) The Kansas state employees health care commission shall designate by rules and regulations those persons who are qualified to participate in the state health care benefits program, including active and retired public officers and employees and their dependents as defined by rules and regulations of the commission. *Such rules and regulations shall not apply to students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.* In designating persons qual-

ified to participate in the state health care benefits program, the commission may establish such conditions, restrictions, limitations and exclusions as the commission deems reasonable. Such conditions, restrictions, limitations and exclusions shall include the conditions contained in subsection (d) of K.S.A. 75-6506, and amendments thereto. Each person who was formerly elected or appointed and qualified to an elective state office and who was covered immediately preceding the date such person ceased to hold such office by the provisions of group health insurance or a health maintenance organization plan under the law in effect prior to August 1, 1984, or the state health care benefits program in effect after that date, shall continue to be qualified to participate in the state health care benefits program and shall pay the cost of participation in the program as established and in accordance with the procedures prescribed by the commission if such person chooses to participate therein.

~~(d) The state health care benefits program established under this act shall be effective on and after August 1, 1984.~~

*(d) The commission shall have no authority to assess charges for employer contributions under the student health care benefits component of the state health care benefits program for persons who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.*

*(e) Nothing in this act shall be construed to permit the Kansas state employees health care commission to discontinue the student health care benefits component of the state health care benefits program until the state board of regents has contracts in effect that provide student coverage pursuant to the authority granted therefor in K.S.A. 75-4101, and amendments thereto.*

New Sec. 3. (a) As used in this section:

(1) "Federal poverty level" means the most recent poverty income guidelines published in the calendar year by the United States department of health and human services.

(2) "Program" means the low-income family postsecondary savings accounts incentive program established by this section.

(3) "Qualified individual or family" means an individual or family who resides within the state of Kansas and whose household income is not more than 200% of the federal poverty level at the time of application.

(4) "Participant" means a qualified individual or family who has been approved for participation in the program.

(5) "District" means a congressional district of the state of Kansas.

(6) Words and phrases have the meanings provided by K.S.A. 75-643, and amendments thereto, unless otherwise provided by this section.

(b) There is hereby established the low-income family postsecondary savings accounts incentive program. The purpose of the program is to encourage the establishment of family postsecondary savings accounts pursuant to K.S.A. 75-640, and amendments thereto, by qualified individuals and families.

(c) The treasurer shall:

(1) Implement and administer the program;

(2) develop marketing plans and promotional material for the program;

(3) prescribe the procedure for, and requirements relating to, the submission and approval of applications;

(4) do all things necessary and proper to carry out the purposes of this act; and

(5) adopt any rules and regulations and policies deemed necessary for implementation and administration of the program.

(d) Applications for participation in the program shall be submitted to the treasurer in the manner and form required by the treasurer. Applications shall be accompanied by any information deemed necessary by the treasurer.

(e) During fiscal year 2007, the treasurer may approve no more than 400 applications. Each fiscal year thereafter, the treasurer may approve up to 400 applications in addition to those approved in the previous fiscal year. In each fiscal year, the treasurer shall approve no more than 100 applications from residents of a single district. If 100 applications from residents of a district are not approved in any fiscal year, the treasurer may approve additional applications submitted by residents of the remaining districts. The treasurer shall

provide written notice, to an applicant, of the approval or nonapproval of such person's application. No application shall be approved after June 30, 2009.

(f) The provisions of this subsection shall be subject to the limitations of appropriations. The amount of contributions made to an account by a participant who establishes a family postsecondary savings account pursuant to K.S.A. 75-640 et seq., and amendments thereto, shall be matched by the state on a dollar-for-dollar basis if the participant contributes at least \$100 in each calendar year in which the account is open. The aggregate of all matching amounts for any participant shall not exceed \$600 in any calendar year. No moneys shall be appropriated for the purpose of marketing or administering this program in an amount which exceeds \$50,000. No moneys shall be appropriated for the purpose of matching contributions after June 30, 2009.

(g) Between January 1 and January 31 of each year, the director of accounts and reports shall transfer from the state general fund to the Kansas postsecondary education savings program trust fund the amount, as certified by the treasurer, necessary to meet the matching obligations under subsection (f) for the preceding calendar year. On or before January 31 of each year, the treasurer shall transfer from the Kansas postsecondary education savings program trust fund to the account of each participant the amount determined by the treasurer to meet the matching obligation due to such participant under subsection (f) for the preceding calendar year.

(h) The treasurer shall ensure that all withdrawals of matching funds are used for qualified withdrawals under K.S.A. 75-640 et seq., and amendments thereto.

(i) On or before January 15, 2009, the treasurer shall prepare and submit to the governor and legislature a report on the program. Such report shall include the number of accounts opened under the program, the amount of moneys contributed to such accounts by participants, the amount of matching moneys transferred by the treasurer pursuant to subsection (g), the average income of the participants, an analysis of the success of the program in meeting the purpose of the program and any other information deemed appropriate by the treasurer.

(j) The provisions of this section shall be part of and supplemental to the Kansas postsecondary education savings program.

Sec. 4. K.S.A. 75-4101 and K.S.A. 2005 Supp. 75-6501 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all in line 12 and 13 and inserting “AN ACT concerning postsecondary education; relating to the state board of regents and postsecondary educational institutions; relating to the powers and duties thereof; relating to postsecondary savings programs; amending K.S.A. 75-4101 and K.S.A. 2005 Supp. 75-6501 and repealing the existing sections.”;

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

TOM SLOAN  
EVERETT L. JOHNSON  
SYDNEY CARLIN  
*Conferees on part of House*

JEAN SCHODORF  
JOHN VRATIL  
JANIS K. LEE  
*Conferees on part of Senate*

On motion of Rep. Sloan, the conference committee report on **SB 332** was adopted.

On roll call, the vote was: Yeas 98; Nays 24; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Bethell, Brown, Burgess, Burroughs, Carlin, Colloton, Cox, Craft, Crow, Davis, Decker, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huff, Humerickhouse, Huntington, D. Johnson, E. Johnson, Kelsey, Kilpatrick, Kirk, Knox, Krehbiel, Kuether, Lane, Light, Loganbill, Long,

Loyd, Lukert, Mah, Mast, Mays, McKinney, Menghini, Merrick, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Otto, Owens, Pauls, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Beamer, Brunk, Carlson, Carter, Dahl, DeCastro, Faber, Gordon, Huebert, Hutchins, Huy, Kelley, Kinzer, Landwehr, Masterson, McCreary, McLeland, F. Miller, Olson, Peck, Pilcher-Cook, Schwab, Schwartz, Watkins.

Present but not voting: None.

Absent or not voting: Edmonds, Goico, Kiegerl.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 498**, 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, in line 36, after the period by inserting "Neither the county commission nor the governing body of such city shall impose any restriction on the number of providers of such continuing education.";

On page 2, by striking all in lines 27 through 43;

By striking all on pages 3 and 4;

On page 5, by striking all in lines 1 through 17;

By renumbering the remaining sections accordingly;

Also on page 5, in line 18, by striking all after "12-1526"; in line 19, by striking all before "hereby" and inserting "is";

In the title, in line 15, by striking all after "and"; in line 16, by striking all before "repealing"; also in line 16, by striking "sections" and inserting "section";

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

JENE VICKREY  
STEVE HUEBERT  
TOM SAWYER  
*Conferees on part of House*

TIM HUELSKAMP  
KAY O'CONNOR  
DONALD BETTS, JR.  
*Conferees on part of Senate*

On motion of Rep. Vickrey, the conference committee report on **SB 498** was adopted.

On roll call, the vote was: Yeas 113; Nays 9; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Garcia, Gatewood, George, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Huy, D. Johnson, E. Johnson, Kelsey, Kilpatrick, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Beamer, Carlson, Carter, Freeborn, Hutchins, Kelley, Kinzer, Mast, Pilcher-Cook.  
Present but not voting: None.

Absent or not voting: Edmonds, Goico, Kiegerl.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 512**, 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 2, by striking all in lines 2 through 5;

And by re-lettering the remaining subsections accordingly;

Also on page 2, in lines 7, 11, 15, 18 and 21 by striking "board certified" and inserting "board-certified"; on page 3, in line 5, after "gastroenterologist" by inserting ", radiologist";

On page 6, by striking all in lines 30 through 35;

And by re-lettering the remaining subsections accordingly;

On page 7, in line 3, by striking "or mixed dust"; by striking all in lines 12 through 15;

And by re-lettering the remaining subsections accordingly;

Also on page 7, in line 26, by striking "for a cumulative period of at least five years";

On page 13, in line 13, after "impairment" by inserting a comma; in line 30, by striking all after "cancer"; in line 31, by striking all before "in";

On page 14, in line 29, after "or" by inserting "exposure to"; in line 37, by striking all after "(3)"; by striking all in lines 38 through 43;

On page 15, by striking all in lines 1 through 5 and inserting "To the extent otherwise permitted by state law, if an heir files a civil action that alleges a silica or asbestos claim based on wrongful death and further alleges in the action that the death was the result of living with an exposed person who, if the civil action had been filed by the exposed person, would have met the requirements specified in subparagraph (C) of paragraph (2) of subsection (g) of this section, and amendments thereto, and that the decedent lived with the exposed person specified in subsection (kk) of section 1, and amendments thereto, for silica claims, or with the exposed person during the time of the exposed person's exposure to asbestos for asbestos claims, the decedent is considered as having satisfied the requirements specified in subparagraph (C) of paragraph (2) of subsection (g) of this section and amendments thereto.";

On page 21, in line 43, by striking "mixed";

On page 22, in line 1, by striking "dust" and inserting "asbestos";

On page 24, in line 26, by striking "4" and inserting "5"; in line 36, by striking "3" and inserting "5";

On page 25, in line 20, by striking all after the stricken material; by striking all in line 21, in line 22, by striking all before "court" and inserting "any given claimed or alleged exposure was substantial factor in causing the plaintiff's injury, loss or damages, the";

On page 28, in line 33, by striking "12" and inserting "11";

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

CLARK SHULTZ

ERIC CARTER

NILE DILLMORE

*Conferees on part of House*

RUTH TEICHMAN

KARIN BROWNLEE

CHRIS STEINEGER

*Conferees on part of Senate*

On motion of Rep. Shultz, the conference committee report on **SB 512** was adopted.

On roll call, the vote was: Yeas 111; Nays 11; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Freeborn, Gatewood, George, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick,



Kinzer, Knox, Krehbiel, Landwehr, Light, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treasurer, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Flaharty, Flora, Garcia, Holland, Kirk, Kuether, Lane, Loganbill, Menghini, M. Miller, Peterson.

Present but not voting: None.

Absent or not voting: Edmonds, Goico, Kiegerl.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SCR 1618**, submits the following report:

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

On page 1, in line 26, after "1965", by inserting ", commonly known as the No Child Left Behind Act of 2001,"; in line 29, after "1965", by inserting ", commonly known as the No Child Left Behind Act of 2001,"; in line 35, after "1965", by inserting ", commonly known as the No Child Left Behind Act of 2001,"; in line 38, after "1965", by inserting ", commonly known as the No Child Left Behind Act of 2001,";

On page 2, in line 5, after "1965," by inserting "commonly known as the No Child Left Behind Act of 2001,"; in line 12, after "1965", by inserting ", commonly known as the No Child Left Behind Act of 2001,";

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

KATHE DECKER

DEENA HORST

SUE STORM

*Conferees on part of House*

JEAN SCHODORF

JOHN VRATIL

JANIS K. LEE

*Conferees on part of Senate*

On motion of Rep. Decker, the conference committee report on **SCR 1618** was adopted.

On roll call, the vote was: Yeas 121; Nays 1; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Beamer, Bethell, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treasurer, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Brown.

Present but not voting: None.

Absent or not voting: Edmonds, Goico, Kiegerl.

**MOTIONS TO CONCUR AND NONCONCUR**

On motion of Rep. Dahl, the House concurred in Senate amendments to **HB 3004**, An act concerning certified public accountants; relating to admission to examination; amending K.S.A. 2005 Supp. 1-302a and repealing the existing section.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 65; Nays 57; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Beamer, Brown, Brunk, Burgess, Carlson, Carter, Colloton, Cox, Dahl, Decker, Faber, George, Grange, Hayzlett, Hill, M. Holmes, Huebert, Huff, Humerickhouse, Huy, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Knox, Landwehr, Lukert, Mast, Masterson, Mays, McCreary, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Pilcher-Cook, Powell, Powers, Schwab, Schwartz, S. Sharp, Shultz, Siegfried, Sloan, Swenson, Tafanelli, Vickrey, Ward, Watkins, Weber, Wilk, Yoder, Yonally.

Nays: Ballard, Bethell, Burroughs, Carlin, Craft, Crow, Davis, DeCastro, Dillmore, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, Gordon, Grant, Hawk, Henderson, Henry, Holland, C. Holmes, Horst, Huntington, Hutchins, D. Johnson, Kirk, Krehbiel, Kuether, Lane, Light, Loganbill, Long, Loyd, Mah, McKinney, McLeland, Menghini, Peck, Peterson, Phelps, Pottorff, Proehl, Roth, Ruff, Ruiz, Sawyer, B. Sharp, Storm, Svaty, Thull, Treaster, Trimmer, Williams, Winn, Wolf.

Present but not voting: None.

Absent or not voting: Edmonds, Goico, Kiegerl.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2706**, submits the following report:

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

On page 3, in line 11, by striking the first "comma" and inserting "and"; also in line 11, by striking "and (a)(6)";

On page 8, after line 1, by inserting:

"Sec. 6. K.S.A. 8-2117 is hereby amended to read as follows: 8-2117. (a) Subject to the provisions of this section, a court of competent jurisdiction may hear prosecutions of traffic offenses involving any child 14 or more years of age but less than 18 years of age. The court hearing the prosecution may impose any fine authorized by law for a traffic offense, including a violation of K.S.A. 8-1567 and amendments thereto, and may order that the child be placed in a juvenile detention facility, as defined by K.S.A. 38-1602 and amendments thereto, for not more than 10 days. If the child is less than 18 years of age, the child shall not be incarcerated in a jail as defined by K.S.A. 38-1602 and amendments thereto. If the statute under which the child is convicted requires a revocation or suspension of driving privileges, the court shall revoke or suspend such privileges in accordance with that statute. Otherwise, the court may suspend the license of any person who is convicted of a traffic offense and who was under 18 years of age at the time of commission of the offense. Suspension of a license shall be for a period not exceeding one year, as ordered by the court. Upon suspending any license pursuant to this section, the court shall require that the license be surrendered to the court and shall transmit the license to the division of vehicles with a copy of the court order showing the time for which the license is suspended. The court may modify the time for which the license is suspended, in which case it shall notify the division of vehicles in writing of the modification. After the time period has passed for which the license is suspended, the division of vehicles shall issue an appropriate license to the person whose license had been suspended, upon successful completion of the examination required by K.S.A. 8-241 and amendments thereto and upon proper application and payment of the required fee unless the child's driving privileges have been revoked, suspended or cancelled for another cause and the revocation, suspension or cancellation has not expired.

(b) Instead of suspending a driver's license pursuant to this section, the court may place restrictions on the child's driver's privileges pursuant to K.S.A. 8-292 and amendments thereto.

(c) Instead of the penalties provided in subsections (a) and (b), the court may place the child under a house arrest program, pursuant to K.S.A. 21-4603b, and amendments thereto, and sentence the child to the same sentence as an adult traffic offender under K.S.A. 8-2116, and amendments thereto.

(d) As used in this section, "traffic offense" means a violation of the uniform act regulating traffic on highways ~~and~~, a violation of articles 1 and 2 of chapter 8 of the Kansas Statutes Annotated ~~and a violation of K.S.A. 40-3104, and amendments thereto~~. Traffic offenses shall include a violation of a city ordinance or county resolution which prohibits acts which would constitute a violation of the uniform act regulating traffic on highways ~~or~~, a violation of articles 1 and 2 of chapter 8 of the Kansas Statutes Annotated, ~~or a violation of K.S.A. 40-3104, and amendments thereto~~, and any violation of a city ordinance or county resolution which prohibits acts which are not violations of state laws and which relate to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind.

Sec. 7. K.S.A. 40-3104 is hereby amended to read as follows: 40-3104. (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court.

No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor

vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsection (b), (c) or (d) shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

(f) Any person in whose name more than 25 motor vehicles are registered in Kansas may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. The certificate of self-insurance issued by the commissioner shall cover such owned vehicles and those vehicles, registered in Kansas, leased to such person if the lease agreement requires that motor vehicle liability insurance on the vehicles be provided by the lessee. Upon application of any such person, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such person is possessed and will continue to be possessed of ability to pay any liability imposed by law against such person arising out of the ownership, operation, maintenance or use of any motor vehicle described in this subsection. A self-insurer shall provide liability coverage subject to the provisions of subsection (e) of K.S.A. 40-3107, and amendments thereto, arising out of the ownership, operation, maintenance or use of a self-insured motor vehicle in those instances where the lessee or the rental driver, if not the lessee, does not have a motor vehicle liability insurance policy or insurance coverage pursuant to a motor vehicle liability insurance policy or certificate of insurance or such insurance policy for such leased or rented vehicle. Such liability coverage shall be provided to any person operating a self-insured motor vehicle with the expressed or implied consent of the self-insurer.

Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to provide liability coverage or personal injury protection benefits required by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any liability imposed by law arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, or to otherwise comply with the requirements of this subsection shall constitute reasonable grounds for the cancellation of a certificate of self-insurance. Reasonable grounds shall not exist unless such objectionable activity occurs with such frequency as to indicate a general business practice.

Self-insureds shall investigate claims in a reasonably prompt manner, handle such claims in a reasonable manner based on available information and effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear.

As used in this subsection, "liability imposed by law" means the stated limits of liability as provided under subsection (e) of K.S.A. 40-3107, and amendments thereto.

Nothing in this subsection shall preclude a self-insurer from pursuing all rights of subrogation against another person or persons.

(g) (1) Any person violating any provision of this section shall be guilty of a class B misdemeanor and shall be subject to a fine of not less than \$300 nor more than \$1,000 or confinement in the county jail for a term of not more than six months, or both such fine and confinement.

(2) Any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor and shall be subject to a fine of not less than \$800 nor more than \$2,500.

(h) In addition to any other penalties provided by this act for failure to have or maintain financial security in effect, the director, upon receipt of a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or a denial of such insurance by the insurance company listed on the form prescribed by the secretary of revenue pursuant to subsection (d) of this section, shall, upon notice and hearing as provided by K.S.A. 40-3118, and amendments thereto:

(1) Suspend:

(A) The license of each driver in any manner involved in the accident;

(B) the license of the owner of each motor vehicle involved in such accident, unless the vehicle was stolen at the time of the accident, proof of which must be established by the owner of the motor vehicle. Theft by a member of the vehicle owner's immediate family under the age of 18 years shall not constitute a stolen vehicle for the purposes of this section;

(C) if the driver is a nonresident, the privilege of operating a motor vehicle within this state; or

(D) if such owner is a nonresident, the privilege of such owner to operate or permit the operation within this state of any motor vehicle owned by such owner; and

(2) revoke the registration of all vehicles owned by the owner of each motor vehicle involved in such accident.

(i) The suspension or revocation requirements in subsection (h) shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy as required by K.S.A. 40-3107, and amendments thereto, with respect to the vehicle involved in the accident;

(2) to the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy with respect to such driver's driving of vehicles not owned by such driver;

(3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103, and amendments thereto;

(4) to the driver or owner of any vehicle involved in the accident which was exempt from the provisions of this act pursuant to K.S.A. 40-3105, and amendments thereto;

(5) to the owner of a vehicle described in subsection (a)(2).

(j) (1) For the purposes of provisions (1) and (2) of subsection (i) of this section, the director may require verification by an owner's or driver's insurance company or agent thereof that there was in effect at the time of the accident an automobile liability policy as required in this act.

~~Any suspension or revocation effected hereunder shall remain in effect until satisfactory proof of financial security has been filed with the director as required by subsection (d) of K.S.A. 40-3118, and amendments thereto, and such person has been released from liability or is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action, has entered into an agreement for the payment of damages, or has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director and has paid the reinstatement fee herein prescribed. Such reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$300.~~

~~(2) Subject to the provisions of subsection (k), any suspension or revocation effected hereunder shall remain in effect until such person:~~

~~(A) Has filed satisfactory proof of financial security with the director as required by subsection (d) of K.S.A. 40-3118 and amendments thereto;~~

~~(B) has paid the reinstatement fee herein prescribed; and~~

(C) (i) has been released from liability;  
 (ii) is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action;  
 (iii) has entered into an agreement for the payment of damages; or  
 (iv) has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director.

(3) The reinstatement fee shall be \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$300.

(k) (1) Whenever any person whose license has been suspended or revoked pursuant to this section is involved in an accident and has entered into an agreement with any driver, or such driver's insurer, who has been damaged or whose vehicle has been damaged to pay for such damage and such person defaults on payments under such agreement, the driver or the driver's insurer, as appropriate, shall notify the director within 60 days of the date of default.

(2) Upon receipt of the notice of default, the director shall immediately suspend such person's license and registration. If such person is a nonresident, the director shall immediately suspend such nonresident's privilege to operate a motor vehicle in this state.

(3) Except as provided in paragraph (4), such person's driver's license, registration and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until:

(A) the director receives notice payments under the agreement referred to in paragraph (1) have been resumed and that payments under such agreement are no longer in default;

(B) such person has filed satisfactory proof of financial responsibility with the director as required by subsection(d) of K.S.A. 40-3118 and amendments thereto; and

(C) the reinstatement fee required by subsection (j) has been paid.

(4) Upon due notice to the director that the conditions of paragraph (3) have been fulfilled, such person may obtain from the director an order restoring such person's driver's license, registration and nonresident's operating privilege to operate a motor vehicle in this state conditioned upon such person's continued compliance with the agreement referred to in paragraph (1).

(5) In the event such person fails to make any further payment under the agreement referred to in paragraph (1) when such payment is due, the director, upon receipt of notice of such default, shall immediately suspend the license, registration or nonresident's operating privilege of such person until all payments have been made under the agreement referred to in paragraph (1). No suspension of such person's license, registration or nonresident's privilege to operate a motor vehicle in this state shall be reinstated pursuant to paragraph (4).

~~(l)~~ (l) The provisions of this section shall not apply to motor carriers of property or passengers regulated by the corporation commission of the state of Kansas.

~~(m)~~ (m) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.”;

And by renumbering the remaining sections accordingly;

On page 10, in line 40, after “8-255”, by inserting “, 8-2117 and 40-3104”;

In the title, in line 16, by striking all after the stricken material; in line 17, by striking all before the semicolon and inserting: “drivers; relating to driver's license restriction and suspension; juvenile traffic offenders”; also in line 17, after “8-255”, by inserting “, 8-2117 and 40-3104”;

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

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

MICHAEL R. O'NEAL  
LANCE KINZER  
JANICE L. PAULS  
*Conferees on part of Senate*

On motion of Rep. O'Neal, the conference committee report on **Sub. HB 2706** was adopted.

On roll call, the vote was: Yeas 108; Nays 14; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Flaharty, Freeborn, Garcia, Gatewood, George, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Landwehr, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Swenson, Tafanelli, Thull, Treaster, Trimmer, Vickrey, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: Davis, Feuerborn, Flora, Henry, Kuether, Lane, McCreary, McKinney, Pauls, Powell, Powers, Schwartz, Svaty, Ward.

Present but not voting: None.

Absent or not voting: Edmonds, Goico, Kiegerl.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2893**, submits the following report:

The Senate recedes from all of its amendments to the bill and agrees to further amend the bill, As Amended by House Committee, as follows:

On page 1, in line 13, before "Section", by inserting "New"; in line 16, after the comma, by inserting "a county, a city,";

On page 2, in line 14, by striking "(1)" and creating and inserting a new paragraph as follows:

"(1) "County or city law enforcement agency" means a city police department, a county sheriff's department, a county law enforcement department as defined in K.S.A. 19-4401, and amendments thereto, or a law enforcement agency established pursuant to the consolidated city-county powers in K.S.A. 12-345, and amendments thereto.

(2)";

And by renumbering the remaining paragraph accordingly;

Also on page 2, in line 24, by striking "a pharmacist licensed by the state board of pharmacy,";

On page 3, in line 7, before "Sec.", by inserting "New"; following line 26, by inserting:

"New Sec. 3. (a) Obstruction of a medicaid fraud investigation is knowingly and intentionally engaging in one or more of the following during an investigation of any matter pursuant to K.S.A. 21-3844 *et seq.*, and amendments thereto:

(1) Falsifying, concealing or covering up a material fact by any trick, misstatement, scheme or device; or

(2) making or causing to be made any materially false writing or document knowing that such writing or document contains any false, fictitious or fraudulent statement or entry.

(b) Obstruction of a medicaid fraud investigation is a severity level 9, nonperson felony.

(c) This section shall be part of and supplemental to the Kansas medicaid fraud control act.

Sec. 4. K.S.A. 2005 Supp. 21-3847 is hereby amended to read as follows: 21-3847. (a) No ~~person nor recipient of medicaid benefits~~, family member of such ~~person recipient or provider of medicaid services~~ shall:

(1) Knowingly and intentionally solicit or receive any remuneration, including but not limited to any kickback, bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind:

(A) In return for referring or refraining from referring an individual to a person for the furnishing or arranging for the furnishing of any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or

(B) in return for purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program.

(2) Knowingly and intentionally offer or pay any remuneration, including, but not limited to, any kickback, bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:

(A) To refer or refrain from referring an individual to a person for the furnishing or arranging for the furnishing of any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or

(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program.

(3) *Knowingly divide or share any funds illegally obtained from the medicaid program.*

(b) *No medicaid recipient shall knowingly and intentionally trade a medicaid number for money or other remuneration, sign for services that are not received by the medicaid recipient or sell or exchange for value goods purchased or provided under the medicaid program.*

~~(c)~~ (c) A violation of this section is a severity level 7, nonperson felony.

~~(d)~~ (d) This section shall not apply to a refund, discount, copayment, deductible, incentive or other reduction obtained by a provider in the ordinary course of business, and appropriately reflected in the claims or reports submitted to the medicaid program, or its fiscal agent, nor shall it be construed to prohibit deductibles, copayments or any other cost or risk sharing arrangements which are a part of any program operated by or pursuant to contracts with the medicaid program.

Sec. 5. K.S.A. 21-3910 is hereby amended to read as follows: 21-3910. (a) Misuse of public funds is *knowingly* using, lending or permitting another to use; public money in a manner not authorized by law, by a custodian or other person having control of public money by virtue of such person's official position.

(b) As used in this section, "public money;" means any money or negotiable instrument which belongs to the state of Kansas or any political subdivision thereof.

~~(c) Misuse of public funds is a severity level 8, nonperson felony.~~ (1) *Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is \$100,000 or more is a severity level 5, nonperson felony.*

(2) *Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is at least \$25,000 but less than \$100,000 is a severity level 7, nonperson felony.*

(3) *Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.*

(4) *Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is less than \$1,000 is a class A nonperson misdemeanor.* Upon conviction of misuse of public funds, the convicted person shall forfeit the person's official position.

Sec. 6. K.S.A. 2005 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 director of health policy and finance shall set the rates for differential cost reimbursement of generic and brand name pharmaceuticals by rules and regulations.

*(c) On and after May 23, 2007, the state medicaid plan shall require that every pharmacy claim form under the plan include the prescriber's unique identification number.*

Sec. 7. K.S.A. 60-4104 as amended by section 9 of 2006 House Substitute for Senate Bill No. 196 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

- (a) All offenses which statutorily and specifically authorize forfeiture;
- (b) violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;
- (c) theft which is classified as a felony violation pursuant to K.S.A. 21-3701, and amendments thereto, in which the property taken was livestock;
- (d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments thereto;
- (e) money laundering, K.S.A. 65-4142, and amendments thereto;
- (f) gambling, K.S.A. 21-4303, and amendments thereto, and commercial gambling, K.S.A. 21-4304, and amendments thereto;
- (g) counterfeiting, K.S.A. 2005 Supp. 21-3763, and amendments thereto;
- (h) violations of section 1 of 2006 House Substitute for Senate Bill No. 196, and amendments thereto;
- (i) medicaid fraud, K.S.A. 21-3844 et seq., and amendments thereto;*
- ~~(j)~~ (j) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;
- ~~(k)~~ (k) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;
- ~~(l)~~ (l) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;
- (m) furtherance of terrorism or illegal use of weapons of mass destruction, section 3 of 2006 Senate Bill No. 25, and amendments thereto.*

Sec. 8. K.S.A. 60-4105 as amended by section 10 of 2006 House Substitute for Senate Bill No. 196 is hereby amended to read as follows: 60-4105. The following property is subject to forfeiture:

- (a) Property described in a statute authorizing forfeiture;
- (b) *except as otherwise provided by law*, all property, ~~including~~ *of every kind, including, but not limited to, cash and negotiable instruments* and the whole of any lot or tract of land and any appurtenances or improvements to real property that is either:
  - (1) Furnished or intended to be furnished by any person in an exchange that constitutes conduct giving rise to forfeiture; or
  - (2) used or intended to be used in any manner to facilitate conduct giving rise to forfeiture, including, but not limited to, any computer, computer system, computer network or any software or data owned by the defendant which is used during the commission of a violation of section 1, and amendments thereto;
- (c) all proceeds of any conduct giving rise to forfeiture;
- (d) ~~any~~ *all property of every kind, including, but not limited to, cash and negotiable instruments* derived from *or realized through* any proceeds which were obtained directly or indirectly from the commission of an offense listed in K.S.A. 60-4104, and amendments thereto;
- (e) all weapons possessed, used, or available for use in any manner to facilitate conduct giving rise to forfeiture;
- (f) ownership or interest in real property that is a homestead, to the extent the homestead was acquired with proceeds from conduct giving rise to forfeiture;

(g) contraband, which shall be seized and summarily forfeited to the state without regard to the procedures set forth in this act;

(h) all controlled substances, raw materials, controlled substance analogs, counterfeit substances, or imitation controlled substances that have been manufactured, distributed, dispensed, possessed, or acquired in violation of the laws of this state; and

(i) any items bearing a counterfeit mark.

Sec. 9. K.S.A. 60-4107 is hereby amended to read as follows: 60-4107. (a) Property may be seized for forfeiture by a law enforcement officer upon process issued by the district court. The court may issue a seizure warrant on an affidavit under oath demonstrating that probable cause exists for the property's forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of any state or of the United States. The court may order that the property be seized on such terms and conditions as are reasonable in the discretion of the court. The order may be made on or in connection with a search warrant. All real property is to be seized constructively or pursuant to a pre-seizure adversarial judicial determination of probable cause, except that this determination may be done ex parte when the attorney for the state has demonstrated exigent circumstances to the court.

(b) Property may be seized for forfeiture by a law enforcement officer without process on probable cause to believe the property is subject to forfeiture under this act.

(c) Property may be seized constructively by:

(1) Posting notice of seizure for forfeiture or notice of pending forfeiture on the property.

(2) Giving notice pursuant to K.S.A. 60-4109, and amendments thereto.

(3) Filing or recording in the public records relating to that type of property notice of seizure for forfeiture, notice of pending forfeiture, a forfeiture lien or a *lis pendens*. Filings or recordings made pursuant to this act are not subject to a filing fee or other charge.

(d) The seizing agency shall make reasonable effort to provide notice of the seizure to the person from whose possession or control the property was seized and any interest holder of record within 30 days of seizing the property. If no person is in possession or control, the seizing agency may attach the notice to the property or to the place of the property's seizure or may make a reasonable effort to deliver the notice to the owner of the property. The notice shall contain a general description of the property seized, the date and place of seizure, the name of the seizing agency and the address and telephone number of the seizing officer or other person or agency from whom information about the seizure may be obtained.

(e) A person who acts in good faith and in a reasonable manner to comply with an order of the court or a request of a law enforcement officer is not liable to any person on account of acts done in reasonable compliance with the order or request. No liability may attach from the fact that a person declines a law enforcement officer's request to deliver property.

(f) A possessory lien of a person from whose possession property is seized is not affected by the seizure.

(g) When property is seized for forfeiture under this act, the seizing agency shall, within 45 days of such seizure, forward to the county or district attorney in whose jurisdiction the seizure occurred, a written request for forfeiture which shall include a statement of facts and circumstances of the seizure, the estimated value of the property, the owner and lienholder of the property, the amount of any lien, and a summary of the facts relied on for forfeiture.

(h) Upon receipt of a written request for forfeiture from a local law enforcement agency, the county or district attorney shall have 15 days to accept the request. Should such county or district attorney decline such request, or fail to answer, the seizing agency may:

(1) Request a state law enforcement agency which enforces this act to adopt the forfeiture;

or

(2) engage an attorney, approved by the county or district attorney, to represent the agency in the forfeiture proceeding.

(i) Upon receipt of a written request for forfeiture from a state law enforcement agency, the county or district attorney shall have 15 days to accept the request. Should such county or district attorney decline such request, or fail to answer, the seizing agency may engage an assistant attorney general or other attorney approved by the attorney general's office to represent the agency in the forfeiture proceeding.

(j) *Nothing in this act shall prevent the attorney general, an employee of the attorney general or an authorized representative of the attorney general from conducting forfeiture proceedings under this act.*

(k) Nothing in this act shall prevent a seizing agency from requesting federal adoption of a seizure. It shall not be necessary to obtain any order pursuant to K.S.A. 22-2512, and amendments thereto, to release any seized property to a federal agency should the county or district attorney approve of such transfer.

~~(l)~~ (l) Nothing in this act shall prevent a seizing agency, or the plaintiff's attorney on behalf of the seizing agency, from settling any alleged forfeiture claim against property before or during forfeiture proceedings. Such settlement shall be in writing and shall be approved, if a local agency, by the county or district attorney or, if a state agency, by the attorney general's office and a district court judge. No hearing or other proceeding shall be necessary. The records of settlements occurring prior to commencement of judicial forfeiture proceedings in the district court shall be retained by the county or district attorney for not less than five years.

~~(m)~~ (m) Settlements under this act shall not be conditioned upon any disposition of criminal charges.

Sec. 10. K.S.A. 60-4117 is hereby amended to read as follows: 60-4117. Except as provided in K.S.A. 65-7014, and amendments thereto: (a) When property is forfeited under this act, the law enforcement agency may:

(1) Retain such property for official use or transfer the custody or ownership to any local, state or federal agency, subject to any lien preserved by the court;

(2) destroy or use for investigative or training purposes, any illegal or controlled substances and equipment or other contraband, provided that materials necessary as evidence shall be preserved;

(3) sell property which is not required by law to be destroyed and which is not harmful to the public:

(A) All property, except real property, designated by the seizing agency to be sold shall be sold at public sale to the highest bidder for cash without appraisal. The seizing agency shall first cause notice of the sale to be made by publication at least once in an official county newspaper as defined by K.S.A. 64-101, and amendments thereto. Such notice shall include the time, place, and conditions of the sale and description of the property to be sold. Nothing in this subsection shall prevent a state agency from using the state surplus property system and such system's procedures shall be sufficient to meet the requirements of this subsection.

(B) Real property may be sold pursuant to subsection (A), or the seizing agency may contract with a real estate company, licensed in this state, to list, advertise and sell such real property in a commercially reasonable manner.

(C) No employee or public official of any agency involved in the investigation, seizure or forfeiture of seized property may purchase or attempt to purchase such property; or

(4) salvage the property, subject to any lien preserved by the court.

(b) When firearms are forfeited under this act, the firearms in the discretion of the seizing agency, shall be destroyed, used within the seizing agency for official purposes, traded to another law enforcement agency for use within such agency or given to the Kansas bureau of investigation for law enforcement, testing, comparison or destruction by the Kansas bureau of investigation forensic laboratory.

(c) The proceeds of any sale shall be distributed in the following order of priority:

(1) For satisfaction of any court preserved security interest or lien, *or in the case of a violation, as defined by subsection (h) of K.S.A. 60-4104, and amendments thereto, the proceeds shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the medicaid fraud reimbursement fund;*

(2) thereafter, for payment of all proper expenses of the proceedings for forfeiture and disposition, including expenses of seizure, inventory, appraisal, maintenance of custody, preservation of availability, advertising, service of process, sale and court costs;

(3) reasonable attorney fees:

(A) If the plaintiff's attorney is a county or district attorney, an assistant, or another governmental agency's attorney, fees shall not exceed 15% of the total proceeds, less the amounts of subsection (c)(1) and (2), in an uncontested forfeiture nor 20% of the total proceeds, less the amounts of subsection (c)(1) and (2), in a contested forfeiture. Such fees shall be deposited in the county or city treasury and credited to the special prosecutor's trust fund. Moneys in such fund shall not be considered a source of revenue to meet normal operating expenditures, including salary enhancement. Such fund shall be expended by the county or district attorney, or other governmental agency's attorney through the normal county or city appropriation system and shall be used for such additional law enforcement and prosecutorial purposes as the county or district attorney or other governmental agency's attorney deems appropriate, including educational purposes. All moneys derived from past or pending forfeitures shall be expended pursuant to this act. The board of county commissioners shall provide adequate funding to the county or district attorney's office to enable such office to enforce this act. Neither future forfeitures nor the proceeds therefrom shall be used in planning or adopting a county or district attorney's budget; ~~or~~

(B) *if the plaintiff's attorney is the attorney general and the conduct and offense giving rise to forfeiture is pursuant to subsection (h) of K.S.A. 60-4104, and amendments thereto, fees shall not exceed 15% of the total proceeds, less the amounts of subsection (c)(1) and (2) in an uncontested forfeiture nor 20% of the total proceeds, less the amounts of subsection (c)(1) and (2) in a contested forfeiture. Such fees 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 medicaid fraud prosecution revolving fund. Moneys paid into the medicaid fraud prosecution revolving fund pursuant to this subsection shall be appropriated to the attorney general for use by the attorney general in the investigation and prosecution of medicaid fraud and abuse; or*

(C) if the plaintiff's attorney is a private attorney, such reasonable fees shall be negotiated by the employing law enforcement agency;

(4) repayment of law enforcement funds expended in purchasing of contraband or controlled substances, subject to any interagency agreement.

(d) Any proceeds remaining shall be credited as follows, subject to any interagency agreement:

(1) If the law enforcement agency is a state agency, the entire amount shall be deposited in the state treasury and credited to such agency's state forfeiture fund. There is hereby established in the state treasury the following state funds: Kansas bureau of investigation state forfeiture fund, *Kansas attorney general's state medicaid fraud forfeiture fund*, Kansas highway patrol state forfeiture fund, Kansas department of corrections state forfeiture fund and Kansas national guard counter drug state forfeiture fund. Expenditures from the Kansas bureau of investigation state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general. *Expenditures from the Kansas attorney general's state medicaid fraud forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.* Expenditures from the Kansas highway patrol state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the highway patrol or by a person or persons designated by the superintendent. Expenditures from the Kansas department of corrections state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of corrections or by a person or persons designated by the secretary. Expenditures from the Kansas national guard counter drug state forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the adjutant general of Kansas or by a person or persons designated by the adjutant general. Each agency shall compile and submit a forfeiture fund report to the legislature on or before February 1 of each year. Such report shall include, but not be limited to: (A) The fund balance on December 1; (B) the deposits and expenditures for the previous 12-month period ending December 1. Upon the effective date of this act, the director of accounts and

reports is directed to transfer each agency's balance in the state special asset forfeiture fund to the agency's new, state forfeiture fund. All liabilities of the state special asset forfeiture fund existing prior to such date are hereby imposed on the Kansas bureau of investigation state forfeiture fund, Kansas highway patrol state forfeiture fund and the Kansas department of corrections state forfeiture fund. The state special asset forfeiture fund is hereby abolished.

(2) If the law enforcement agency is a city or county agency, the entire amount shall be deposited in such city or county treasury and credited to a special law enforcement trust fund. Each agency shall compile and submit annually a special law enforcement trust fund report to the entity which has budgetary authority over such agency and such report shall specify, for such period, the type and approximate value of the forfeited property received, the amount of any forfeiture proceeds received, and how any of those proceeds were expended.

(3) Moneys in the Kansas bureau of investigation state forfeiture fund, Kansas highway patrol state forfeiture fund, Kansas department of corrections state forfeiture fund, the special law enforcement trust funds and the Kansas national guard counter drug state forfeiture fund shall not be considered a source of revenue to meet normal operating expenses. Such funds shall be expended by the agencies or departments through the normal city, county or state appropriation system and shall be used for such special, additional law enforcement purposes as the law enforcement agency head deems appropriate. Neither future forfeitures nor the proceeds from such forfeitures shall be used in planning or adopting a law enforcement agency's budget.

(4) *Moneys in the Kansas attorney general's medicaid fraud forfeiture fund shall defray costs of the attorney general in connection with the duties of investigating and prosecuting medicaid fraud and abuse.*

Sec. 11. K.S.A. 60-4119 is hereby amended to read as follows: 60-4119. (a) If a person is or may be called to produce evidence at a deposition, hearing or trial under this act or at an investigation brought by the attorney under K.S.A. 60-4118, *and amendments thereto*, the district court for the county in which the deposition, hearing, trial, or investigation is or may be held, upon certification in writing of a request of the county or district attorney for the county, *or the attorney general*, shall issue an order, ex parte or after a hearing, requiring the person to produce evidence, notwithstanding that person's refusal to do so on the basis of the privilege against self-incrimination.

(b) The county or district attorney, *or the attorney general*, may certify in writing a request for an ex parte order under this section if in such ~~county or district~~ attorney's judgment:

- (1) The production of the evidence may be necessary to the public interest; and
- (2) the person has refused or is likely to refuse to produce evidence on the basis of such person's privilege against self-incrimination.

(c) If a person refuses, on the basis of such person's privilege against self-incrimination, to produce evidence in any proceeding described in this act, and the presiding officer informs the person of an order issued under this section, the person may not refuse to comply with the order. The person may be compelled or punished by the district court issuing an order for civil or criminal contempt.

(d) The production of evidence compelled by order issued under this section, and any information directly or indirectly derived from such evidence, may not be used against the person in a subsequent criminal case, except in a prosecution for perjury, K.S.A. 21-3805, and amendments thereto, making false writing, K.S.A. 21-3711, and amendments thereto, or an offense otherwise involving a failure to comply with the order. Nothing in this subsection shall be interpreted as preventing the use in a criminal action any evidence lawfully obtained independently of these procedures.

Sec. 12. K.S.A. 21-3910, 60-4107, 60-4117 and 60-4119 and K.S.A. 2005 Supp. 21-3847 and 39-7,121d and K.S.A. 60-4104 as amended by section 9 of 2006 House Substitute for Senate Bill No. 196 and 60-4105 as amended by section 10 of 2006 House Substitute for Senate Bill No. 196 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 10, by striking all after “concerning” and inserting “health care costs; relating to offenders in custody; declaring certain acts to be crimes and providing penalties

for violations; state medicaid plan; medicaid fraud; obstruction of a medicaid fraud investigation; amending K.S.A. 21-3910, 60-4107, 60-4117 and 60-4119 and K.S.A. 2005 Supp. 21-3847 and 39-7,121d and K.S.A. 60-4104 as amended by section 9 of 2006 House Substitute for Senate Bill No. 196 and 60-4105 as amended by section 10 of 2006 House Substitute for Senate Bill No. 196 and repealing the existing sections.”;

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

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

MICHAEL R. O'NEAL  
LANCE KINZER  
JANICE L. PAULS  
*Conferees on part of Senate*

On motion of Rep. O'Neal, the conference committee report on **HB 2893** was adopted.

On roll call, the vote was: Yeas 121; Nays 0; Present but not voting: 1; Absent or not voting: 3.

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz, B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treasurer, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: Hill.

Absent or not voting: Edmonds, Goico, Kiegerl.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 164**, 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 7, by striking all in lines 15 through 42 and inserting the following:

“New Section 1. As used in sections 2 through 8, and amendments thereto:

(a) “Commission” means the unification commission appointed pursuant to section 2, and amendments thereto.

(b) “City” means any city located in Greeley county.

(c) “County” means Greeley county.

New Sec. 2. (a) Within 10 days of the effective date of this act, a unification commission shall be appointed. One member shall be appointed by the governing body of the city of Tribune, one member shall be appointed by the governing body of the city of Horace and two members shall be appointed by the board of county commissioners of the county. The fifth member shall be appointed by the members of the unification commission appointed by the cities and county and such member shall serve as the chairperson of the commission. Members of the commission shall include, but not be limited to, persons with experience in accounting, business management, municipal finance, law, education, political science or public administration. Members of the commission shall be residents of Greeley county.

(b) Members of the commission may be paid compensation, subsistence allowances, mileage and other expenses as provided by K.S.A. 75-3223, and amendments thereto.

(c) The members of the unification commission may appoint an executive director of the commission. The executive director may be paid compensation in an amount determined by the commission. If approved by the commission, the executive director may employ other staff and may contract with consultants, as the executive director deems necessary to carry out the functions of the commission. Staff employed by the executive director shall receive compensation established by the executive director.

(d) Within 30 days following the appointment of all members of the commission, the commission shall meet and organize by the election of a vice-chairperson and other officers deemed necessary. The commission may adopt rules governing the conduct of its meetings.

New Sec. 3. (a) The commission shall prepare and adopt a plan addressing the unification of the city and county or certain city and county offices, functions, services and operations. The commission shall conduct such studies and investigations as it deems appropriate to complete its work. Such studies and investigations shall include, but not be limited to, studies of the costs and benefits of unifying the city and county or certain city and county offices, functions, services and operations.

(b) The commission shall hold public hearings for the purpose of receiving information and materials which will aid in the drafting of the plan.

(c) Within one year following the appointment of all members of the commission, the commission shall prepare and adopt a preliminary plan addressing the unification of the city and county or certain city and county offices, functions, services and operations it deems advisable. Copies of the preliminary plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall hold at least two public hearings to obtain citizen views concerning the preliminary plan. Notice of such hearings shall be published at least twice in a newspaper of general circulation within the county. Following the public hearings on the preliminary plan, the commission may adopt, or modify and adopt, the preliminary plan as the final plan.

(d) Within 30 days of the last public hearing held on the preliminary plan, the commission shall adopt its final plan. The final plan shall include the full text and an explanation of the proposed plan, and comments deemed desirable by the commission, a written opinion by an attorney admitted to practice law in the state of Kansas and retained by the executive director for such purpose that the proposed plan is not in conflict with the constitution or the laws of the state, and any minority reports. Copies of the final plan shall be filed with the county election officer, city clerk, each public library within the county and any other place designated by the commission. Copies of such plan shall be available to members of the public for inspection upon request. The commission shall continue in existence at least 90 days following the submission of the final plan pursuant to this subsection.

(e) (1) The final plan shall be submitted to the qualified electors of the county at the next regular general election held in November of an even-numbered year. If the statutorily mandated duties of an elective office are to be eliminated or if the office is to be eliminated and the duties transferred to a nonelective office, the question of elimination of such duties or office shall be submitted to the voters as a separate ballot question. Such election shall be called and held by the county election officer in the manner provided by the general election law. Such election may be conducted by mail ballot. A summary of the final plan shall be prepared by the commission and shall be published once each week for two consecutive weeks in a newspaper of general circulation within the county. If a majority of the qualified electors voting on the plan who reside within the corporate limits of the city and a majority of the qualified electors voting on the plan who reside outside of the corporate limits of the city vote in favor thereof, the unification plan shall be implemented in the manner provided by the plan. If a majority of the electors who reside within the corporate limits of the city or a majority of the qualified electors who reside outside of the corporate limits of the city vote against such plan, the proposed unification plan shall not be implemented.

(2) Any proposed unification which eliminates an elective office shall provide that the elimination of such office shall become effective upon the date of normal expiration of the term of such office.

(3) If the final plan provides for the unification of the city of Horace with the county or the unification or elimination of any of the offices or powers, duties and functions of such offices of the city of Horace and a majority of the qualified electors of the city of Horace voting on the plan do not vote in favor thereof, the city of Horace and officers thereof shall continue in existence and operation as if no unification had occurred.

(4) If the commission submits a final plan which does not recommend the unification of the city and county or certain city and county offices, functions, services and operations, the provisions of this subsection shall not apply.

New Sec. 4. (a) Any plan submitted by the commission shall provide for the exercise of powers of local legislation and administration not inconsistent with the constitution or other laws of this state.

(b) If the commission submits a plan providing for the unification of certain city and county offices, functions, services and operations, the plan shall:

(1) Include a description of the form, structure, functions, powers and officers and the duties of such officers recommended in the plan.

(2) Provide for the method of amendment of the plan.

(3) Specify the effective date of the unification.

(4) Include other provisions determined necessary by the commission.

(c) If the plan provides for the unification of the city and county, in addition to the requirements of subsection (b) the plan shall:

(1) Provide that the members of the governing body be elected on an at-large basis and fix the number, term and initial compensation of the governing body of the unified city-county and the method of election.

(2) Determine whether elections of the governing body of the unified city-county shall be partisan or nonpartisan elections and the time at which such elections shall be held.

(3) Determine the distribution of legislative and administrative duties of the unified city-county officials, provide for unification or expansion of services as necessary, authorize the appointment of a city-county administrator or manager, if deemed advisable, and prescribe the general structure of the unified city-county government.

(4) Provide for the official name of the unified city-county.

(5) Provide for the transfer or other disposition of property and other rights, claims and assets of the county and city.

(6) Fix the rate of the retailers' sales tax, if any.

New Sec. 5. Greeley county is hereby designated an urban area, as authorized under the provisions of section 17 of article 2 of the constitution of the state of Kansas, for the purpose of granting to such county and urban area powers of local government and unification of local government.

New Sec. 6. (a) If the voters approve a plan which provides for the unification of the city and county, such unified city-county shall be subject to the provisions of this section.

(b) The unified city-county shall be subject to the cash-basis and budget laws of the state of Kansas.

(c) Except as provided in subsection (e), and in any other statute which specifically exempts bonds from the statutory limitations on bonded indebtedness, the limitation on bonded indebtedness of the unified city-county under this act shall be 30% of the assessed value of all tangible taxable property within such county on the preceding August 25.

(d) The following shall not be included in computing the total bonded indebtedness of the unified city-county for the purposes of determining the limitations on bonded indebtedness:

(1) Bonds issued for the purpose of refunding outstanding debt, including outstanding bonds and matured coupons thereof, or judgments thereon.

(2) Bonds issued pursuant to the provisions of article 46 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto.

(3) Bonds issued for the purpose of financing the construction or remodeling of a courthouse, jail or law enforcement center facility, which bonds are payable from the proceeds of a retailers' sales tax.

(4) Bonds issued for the purpose of acquiring, enlarging, extending or improving any storm or sanitary sewer system.



(5) Bonds issued for the purpose of acquiring, enlarging, extending or improving any municipal utility.

(6) Bonds issued to pay the cost of improvements to intersections of streets and alleys or that portion of any street immediately in front of city or school district property.

(e) Any bonded indebtedness and interest thereon incurred by the city or county prior to unification shall remain an obligation of the property subject to taxation for the payment thereof prior to such unification.

(f) Upon the effective date of the unification of the city and county, any retailers' sales tax levied by the city or county in accordance with K.S.A. 12-187 et seq., and amendment thereto, prior to such date shall remain in full force and effect, except that part of the rate attributable to the former city of Tribune shall not apply to retail sales in any other city located in the county.

(g) Upon the effective date of the unification of the city and county, the territory of the unified city-county shall include:

(1) All of the territory of the county for purposes of exercising the powers, duties and functions of a county.

(2) (A) Except as provided by paragraph (B), all of the territory of the county, except the territory of cities located in the county other than the former city of Tribune and the unincorporated area of the county, for purposes of exercising the powers, duties and functions of a city; or

(B) all the territory of the county located within the incorporated areas of the county, for the purpose of exercising the powers, duties and functions of a city. The provisions of this paragraph shall apply only if the final plan provides for the unification of the city of Horace with the county and a majority of the qualified electors of the county and a majority of the qualified electors of the city of Horace voting on the plan vote in favor thereof.

(h) For the purposes of section 1 of article 5 of the constitution of the state of Kansas, the "voting area" for the governing body of the unified city-county shall include all the territory within the county.

(i) Except for the unified city-county and unless otherwise provided by law, other political subdivisions of the county shall not be affected by unification of the city and county. Such other political subdivisions shall continue in existence and operation.

(j) Unless otherwise provided by law, the unified city-county shall be eligible for the distribution of any funds from the state and federal government as if no unification had occurred. Except as provided in this subsection, the population and assessed valuation of the territory of the unified city-county shall be considered its population and assessed valuation for purposes of the distribution of moneys from the state or federal government.

(k) The unified city-county shall be a county. The governing body of the unified city-county shall be considered county commissioners for the purposes of section 2 of article 4 of the constitution of the state of Kansas and shall have all the powers, functions and duties of a county and may exercise home rule powers in the manner and subject to the limitations provided by K.S.A. 19-101a, and amendments thereto, and other laws of this state.

The governing body of the unified city-county shall be responsible for any duties or functions imposed by the constitution of the state of Kansas and other laws of this state upon any county office abolished by the unification plan. Such duties may be delegated by the governing body or as provided in the unification plan.

(l) The unified city-county shall be a city of the first class. The governing body of the unified city-county shall have all the powers, functions and duties of a city of the first class and may exercise home rule powers in the manner and subject to the limitations provided by article 12 of section 5 of the constitution of the state of Kansas and other laws of this state.

(m) The governing body of the unified city-county may create special service districts within the city-county and may levy taxes for services provided in such districts.

(n) Changes in the form of government approved by the voters in accordance with the unification plan are hereby declared to be legislative matters and subject to initiative and referendum in accordance with K.S.A. 12-3013 et seq., and amendments thereto.

New Sec. 7. (a) The governing body of the unified city-county may not annex any land located outside the county.

(b) The governing body of the unified city-county may not initiate annexation procedures of land located within the county, but may annex land upon petition of the owners of any such land.

New Sec. 8. All costs incurred or authorized by the unification commission and all other costs incurred by the city and county pursuant to this act shall be paid by the city and county.

New Sec. 9. (a) Until a special election is held at which a final plan is submitted for approval to the electors or until a final plan which does not recommend unification of the city and county is adopted by a unification commission, the governing body of any city which is the subject of a study considering the unification of such city with the county in which such city is located may not initiate pursuant to K.S.A. 12-520, and amendments thereto, annexation procedures of land located within the county, but may annex land upon petition of the owners of any such land.

(b) As used in this section, "city" means any city located within Kansas.

(c) The provisions of this section shall expire on June 30, 2007.

New Sec. 10. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

Sec. 11. K.S.A. 2005 Supp. 19-205 is hereby amended to read as follows: 19-205. Except as provided by K.S.A. 12-344 ~~and~~, 12-345, *sections 4 and 6, and amendments thereto*, no person holding any state, county, township or city office shall be eligible to the office of county commissioner in any county in this state.

Nothing in this section shall prohibit the appointment of any county commissioner to any state board, committee, council, commission or similar body which is established pursuant to statutory authority, so long as any county commissioner so appointed is not entitled to receive any pay, compensation, subsistence, mileage or expenses for serving on such body other than that which is provided by law to be paid in accordance with the provisions of K.S.A. 75-3223, and amendments thereto.

Sec. 12. K.S.A. 2005 Supp. 19-205 is hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas register.;

In the title, by striking all in lines 14 through 17 and inserting "AN ACT concerning the unification of certain cities and counties; amending K.S.A. 2005 Supp. 19-205 and repealing the existing section.;"

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

JENE VICKREY  
STEVE HUEBERT  
TOM SAWYER  
*Conferees on part of House*

TIM HUELSKAMP  
KAY O'CONNOR  
MARK GILSTRAP  
*Conferees on part of Senate*

On motion of Rep. Vickrey, the conference committee report on **SB 164** was adopted.

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

Yeas: Aurand, Ballard, Beamer, Bethell, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Carter, Colloton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Garcia, Gatewood, George, Gordon, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Holland, C. Holmes, M. Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, D. Johnson, E. Johnson, Kelley, Kelsey, Kilpatrick, Kinzer, Kirk, Knox, Krehbiel, Kuether, Landwehr, Lane, Light, Loganbill, Long, Loyd, Lukert, Mah, Mast, Masterson, Mays, McCreary, McKinney, McLeland, Menghini, Merrick, F. Miller, M. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, O'Malley, O'Neal, Oharah, Olson, Otto, Owens, Pauls, Peck, Peterson, Phelps, Pilcher-Cook, Pottorff, Powell, Powers, Proehl, Roth, Ruff, Ruiz, Sawyer, Schwab, Schwartz,

B. Sharp, S. Sharp, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Treasurer, Trimmer, Vickrey, Ward, Watkins, Weber, Wilk, Williams, Winn, Wolf, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Edmonds, Goico, Kiegerl.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 528**, 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.

JIM MORRISON

PEGGY MAST

*Conferees on part of House*

JIM BARNETT

NICK JORDAN

*Conferees on part of Senate*

On motion of Rep. Jim Morrison, the conference committee report on **SB 528** was adopted.

Speaker Mays thereupon appointed Reps. Jim Morrison, Mast and Kirk as second conferees on the part of the House.

On motion of Rep. Aurand, the House resolved into Committee of the Whole, with Rep. Kirk in the chair.

#### COMMITTEE OF THE WHOLE

On motion of Rep. Kirk, Committee of the Whole report, as follows, was adopted:

Recommended that committee report to **Sub. SB 486** be adopted; and the substitute bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**HB 2432, HB 2916, HB 3005** reported correctly re-engrossed May 1, 2006.

#### REPORT ON ENROLLED BILLS

**HB 2578, HB 2856** reported correctly enrolled, properly signed and presented to the governor on May 1, 2006.

On motion of Rep. Aurand, the House adjourned until 9:00 a.m., Tuesday, May 2, 2006.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

