

# Journal of the House

FIFTY-FIFTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, April 2, 2009, 9:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.  
The roll was called with 124 members present.  
Rep. Lane was excused on excused absence by the Speaker.  
Present later: Rep. Lane.

Prayer by Chaplain Brubaker:

Father God,  
It's crunch time . . .  
last minute conference committee meetings,  
last minute opportunities to change a vote,  
last minute modifications of a bill,  
last minute pleas to hear.  
Lord, in our haste and eagerness  
to complete our work,  
don't let us take final action without  
careful thought and consideration.  
Keep us focused . . .  
keep us alert . . .  
keep us in a spirit of unity . . .  
give us Your wisdom.  
In Christ's name I pray, Amen.

The Pledge of Allegiance was led by Rep. Feuerborn.

## PERSONAL PRIVILEGE

Rep. Svaty addressed the following remarks to the members of the House:

Most of you know I was elected to this position shortly after graduating from kindergarten. It's particularly an honor for me, therefore, to be introducing all of you to my son, Jackson Cole Svaty.

Jackson was 8.1 lbs. when he was born, which is about 1900 pounds per megawatt hour.

All jokes aside, his mother Kimberly is with us in the gallery today and we are both proud to introduce Jackson to you. Thank you for all of your thoughts and prayers.

Rep. Moxley presented Rep. Svaty with a framed, light-hearted birth certificate.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committee as indicated:  
Committee of the Whole: **HCR 5022**.

## MESSAGE FROM THE SENATE

Announcing adoption of **SCR 1617**.

The Senate adopts conference committee report on **S. Sub. for HB 2126**.

The Senate adopts conference committee report on **HB 2250**.

The Senate adopts conference committee report on **HB 2292**.

The Senate adopts the conference committee report to agree to disagree on **HB 2172** and has appointed Senators Donovan, D. Schmidt and Holland as second conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2162** and has appointed Senators Barnett, V. Schmidt and Haley as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2324** and has appointed Senators Donovan, D. Schmidt and Holland as conferees on the part of the Senate.

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate concurrent resolution was thereupon introduced and read by title: **SCR 1617**.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Speaker O'Neal announced that order of business, Final Action on Bills and Concurrent Resolutions, would be passed over until later in the morning session.

On motion of Rep. Merrick, the House resolved into Committee of the Whole, with Rep. Rhoades in the chair.

#### COMMITTEE OF THE WHOLE

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

Recommended that **HCR 5021**, **HCR 5020**; **SCR 1610** be adopted.

Committee report to **HB 2374** be adopted; and the bill be passed as amended.

Committee report to **HB 2388** be adopted; and the bill be passed as amended.

Committee report recommending a substitute bill to **H. Sub. for SB 218** be adopted; also, roll call was demanded on motion of Rep. Huntington to amend on page 2, by striking all in lines 38 through 43;

By striking all on pages 3 through 15;

On page 16, by striking all in lines 1 through 28; in line 29, by striking all after "65-445"; by striking all in line 30; in line 31, by striking all before "hereby" and inserting "is";

On page 1, in the title, in line 9, by striking all after "regarding"; in line 10, by striking all before the semicolon; also in line 10, by striking all after "65-445"; by striking all in line 11, in line 12, by striking all before "and" where it appears for the second time, in line 13, by striking all after "existing" and inserting "section."

On roll call, the vote was: Yeas 44; Nays 79; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Benlon, Brookens, T. Brown, Carlin, Colloton, Crow, Davis, Dillmore, Finney, Flaharty, Furtado, Garcia, S. Gatewood, Gordon, Goyle, Hawk, Henderson, Hill, Huntington, Johnson, Kuether, Loganbill, Mah, McCray-Miller, Menghini, Moxley, Neighbor, Pottorff, Proehl, Quigley, Rardin, Roth, Ruiz, Sawyer, Slattery, Sloan, Spalding, Talia, Tietze, Trimmer, Winn, K. Wolf, Worley.

Nays: Aurand, Bethell, Bowers, A. Brown, Brunk, Burgess, Burroughs, Carlson, Craft, Crum, DeGraaf, Donohoe, Faber, Feuerborn, Frownfelter, Fund, D. Gatewood, George, Goico, Grange, Grant, Hayzlett, Henry, Hermanson, Hineman, C. Holmes, M. Holmes, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Light, Long, Lukert, Maloney, Mast, McLeland, Merrick, Morrison, Myers, Navinsky, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Prescott, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Svaty, Swanson, Swenson, Tafanelli, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, B. Wolf, Yoder.

Present but not voting: None.

Absent or not voting: Horst, Lane.

The motion of Rep. Huntington did not prevail.

Also, roll call was demanded on motion of Rep. Loganbill to amend **H. Sub. for SB 218** on page 14, in line 35, by striking all after "abortion"; in line 36, by striking "viable fetus unless"; in line 42, by striking "such person is a physician and has a documented re-"; by striking all in line 43;

On page 15, by striking all in lines 1 through 8; in line 9, by striking all before the period; by striking all in lines 27 through 43;

On page 16, by striking all in lines 1 through 28;

On roll call, the vote was: Yeas 39; Nays 85; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Benlon, T. Brown, Carlin, Crow, Davis, Dillmore, Finney, Flaharty, Furtado, Garcia, S. Gatewood, Gordon, Goyle, Hawk, Henderson, Hill, Huntington, Johnson, Kuether, Loganbill, Mah, McCray-Miller, Menghini, Neighbor, Pottorff, Quigley, Rardin, Roth, Ruiz, Sawyer, Sloan, Spalding, Tietze, Trimmer, Ward, Winn, K. Wolf, Worley.

Nays: Aurand, Bethell, Bowers, Brookens, A. Brown, Brunk, Burgess, Burroughs, Carlson, Colloton, Craft, Crum, DeGraaf, Donohoe, Faber, Feuerborn, Frownfelter, Fund, D. Gatewood, George, Goico, Grange, Grant, Hayzlett, Henry, Hermanson, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleebe, Knox, Landwehr, Light, Long, Lukert, Maloney, Mast, McLeland, Merrick, Morrison, Moxley, Myers, Navinsky, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Powell, Prescott, Proehl, Rhoades, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Svaty, Swanson, Swenson, Tafanelli, Talia, Vickrey, Watkins, Wetta, Whitham, Williams, B. Wolf, Yoder.

Present but not voting: None.

Absent or not voting: Lane.

The motion of Rep. Loganbill did not prevail; and **H. Sub. for SB 218** be passed.

#### INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6025—

By Representative Grant

A RESOLUTION congratulating and commemorating  
the educational leadership and career of Mr. David DeMoss.

WHEREAS, David DeMoss, the Executive Director of the Southeast Kansas Education Service Center, an education service agency that provides over 200 educational programs for students in kindergarten through twelfth grade including a one-of-a-kind Bioscience Education center, the state's largest educational distance learning program and numerous other programs and services that enable schools to operate more efficiently and effectively; and

WHEREAS, David DeMoss attended Pittsburg State University, earning his Bachelor's Degree in Printing and Technology in 1970, his Master's Degree in Trade and Industrial Education in 1971 and his Education Specialist Degree in School Administration in 1980; and

WHEREAS, Mr. DeMoss served as Graphic Arts Instructor for the Southeast Kansas Area Vocational Technical School from 1970 to 1974. In 1975, he assumed the role of Vocational Coordinator for the Southeast Career and Vocational Education Service. In 1976, while serving as the Vocational Coordinator, Mr. DeMoss was appointed to the position of Executive Director of the newly formed Inter-local #609, Southeast Kansas Education Service Center, also known as Greenbush. Under David DeMoss' leadership over the past 33 years, Greenbush has evolved from a regional service agency into a major educational center impacting the educational opportunities of hundreds of thousands of Kansans and influencing school leadership in the state; and

WHEREAS, David DeMoss led the growth of the Southeast Kansas Education Service Center from an organization offering only a video library, cooperative purchasing and audiovisual repair, to a nationally respected educational agency; and

WHEREAS, Mr. DeMoss, through his vision, leadership and never-ending quest to provide equal educational opportunities for everyone, has enhanced the quality of learning from birth to adult across the state of Kansas: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we congratulate and commend David DeMoss for 33 years of dedicated service as the Executive Director of the Southeast Kansas Education Service Center; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to provide an enrolled copy of the resolution to David DeMoss, 610 S Carbon, Girard, Kansas, 66743.

#### **INTRODUCTION OF GUESTS**

There being no objection, the following remarks by Rep. Menghini, on behalf of Reps. Grant, D. Gatewood, Palmer and Williams, are spread upon the journal:

We are here today to recognize the accomplishments of Dick Webb who recently passed away from lung cancer. Today we have with us Dick's wife, Kay Lynne Webb, his daughter, Susie Lundy, and his son, Rick Webb, who now runs the show. Dick has been a great asset to the state of Kansas. You may not yet recognize the name, but he is infamous in our part of the state for his many accomplishments and philanthropy. He began the SEK Railroad back in 1983 at the kitchen table with his wife Kay Lynn. You may not recognize SEK Railroad either. The company is now Watco Companies, a name many of you will recognize. Dick grew the business to 26 states since 1983. The headquarters are in southeast Kansas, in Pittsburg. They have over 2,000 employees. Watco companies spans half of the legislative districts of the state, from Kansas City to Pittsburg to the Colorado border. It's the largest shortline railroad in Kansas. It has mechanical shops in Pittsburg, Coffeyville, Neodesha, Wichita and Junction City. I mention this because Dick's passion for the mechanical aspect of the railroad was what he loved. Watco has employees that work in Kansas City, Pittsburg, Cherryvale, Chanute, Winfield, Wichita, Hutchinson, Great Bend, Salina and Scott City. Dick truly was an influence on the entire state of Kansas. In addition, to the business accomplishments, the Webb family has a long tradition of philanthropy for Pittsburg and SEK. They are great supporters of the community and Pittsburg State University. They have been a great asset to the state of Kansas. Please join me in offering our condolences and recognizing the many great accomplishments of Dick Webb.

#### **INTRODUCTION OF GUESTS**

There being no objection, the following remarks by Rep. McCray-Miller, on behalf of the South Central delegation, are spread upon the journal:

The Wichita Heights Falcons boys' basketball team completed a 24-1 season by earning the Class 6A State Championship in Emporia on March 14. Heights defeated Wichita Southeast 73-58 to earn the first boys' championship for the school in 32 years. The team also earned the prestigious sportsmanship award from the Kansas State High School Activities Association for its conduct at the state tournament. The Falcons posted a 16-0 record in the city league to become the first team since 1994 to go undefeated in league play. Perry Ellis became the first freshman in Kansas history to be named first team all state and Gatorade State Player of the Year. Head Coach Joe Auer was named the state coach of the year by the Wichita Eagle.

Team members present today are Perry Ellis, Terrence Moore, Evan Wessel, Dreamius Smith, E.J. Dobbins, Jay Bradley, Jalen Owens, Keith Riley, Darrel Dempsey, Thomas Bland, Austin Bahner, Dorrian Roberts and Steven VanLooy; managers, Aaron Roberts and Kyle Coffman; and coaches, Joe Auer, Bryan Chadwick, Tyler Richardson, Richard Vix and Ben Wahlers.

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

**H. Sub. for SB 257**, An act concerning cities; relating to public improvements outside the city limits; amending K.S.A. 12-693 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 4; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Donohoe, Faber, Feuerborn, Finney, Frownfelter, Fund, Furtado, Garcia, S. Gatewood, George, Goico,

Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Carlin, Dillmore, Flaharty, D. Gatewood.

Present but not voting: None.

Absent or not voting: Lane.

The substitute bill passed, as amended.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 68**, submits the following report:

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

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

By striking all on pages 2 and 3;

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

"Section 1. K.S.A. 20-2608 is hereby amended to read as follows: 20-2608. (a) Any judge may retire upon reaching age 65 or age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the judge is equal to or more than 85 and upon making application for retirement to the board. Any judge upon reaching age 75 shall retire, except that ~~any duly elected or appointed justice of the supreme court shall retire upon reaching age 70~~ *when any judge attains the age of 75, such judge may, if such judge desires, finish serving the term during which such judge attains the age of 75.* Upon retiring, each such judge as described in this subsection shall receive retirement annuities as provided in K.S.A. 20-2610, and amendments thereto, ~~except, that when any justice of the supreme court attains the age of 70, such judge may, if such judge desires, finish serving the term during which such judge attains the age of 70.~~

(b) Notwithstanding the provisions of subsection (a), any judge who is otherwise eligible to retire may retire upon reaching age 60 and, having total years of service of not less than 10 years, and upon making application to the board. Any such judge who retires on and after July 1, 1993, and prior to attaining the age of 62 shall receive a retirement annuity pursuant to K.S.A. 20-2610, and amendments thereto, based upon the normal retirement age of 62 reduced by an amount equal to the product of (1) such annual retirement annuity payable had the judge retired on the normal retirement date, multiplied by (2) the product of .2% multiplied by the number of months' difference, to the nearest whole month, between the judge's attained age at the time of retirement and age 62.

(c) Notwithstanding the provisions of subsection (a), on or after July 1, 1993, any judge who is otherwise eligible to retire may retire upon reaching age 55 with the completion of 10 years of service, and upon making application to the board. Any such judge who retires prior to attaining the age of 62 pursuant to this subsection shall receive a retirement annuity pursuant to K.S.A. 20-2610, and amendments thereto, based upon the normal retirement age of 62 reduced by an amount equal to the total of: (1) (A) The product of such annual retirement annuity payable had the judge retired on the normal retirement date, multiplied by (B) the product of .6% multiplied by the number of months' difference, to the nearest whole month, between the member's attained age at the time of retirement and age 60; and

(2) for any judge who retired on or after July 1, 1993, the product of such annual retirement annuity payable had the judge retired on the normal retirement date, multiplied by 4.8%.

The provisions of this subsection apply to any judge who retires before the age of 62 and has attained age 55 but has not attained age 60, with the completion of 10 years of service.”;

Also on page 4, in line 16, by striking all after “3.” and inserting “K.S.A. 20-2608 is”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 12, by striking all after “concerning”; by striking all in line 13; in line 14, by striking all before the period and inserting “judges and justices; relating to retirement age; amending K.S.A. 20-2608 and repealing the existing section”;

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

LANCE KINZER

JEFF WHITHAM

JANICE L. PAULS

*Conferees on part of House*

THOMAS C. OWENS

DEREK SCHMIDT

DAVID HALEY

*Conferees on part of Senate*

On motion of Rep. Kinzer, the conference committee report on **SB 68** was adopted.

On roll call, the vote was: Yeas 98; Nays 26; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Benlon, Bowers, Brookens, T. Brown, Brunk, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, DeGraaf, Faber, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, Kinzer, Kleeb, Kuether, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Palmer, Patton, Pauls, Peterson, Phelps, Powell, Prescott, Proehl, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Talia, Tietze, Trimmer, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand, Bethell, A. Brown, Burgess, Davis, Dillmore, Donohoe, Feuerborn, D. Gatewood, Grant, Huntington, Johnson, King, Knox, Landwehr, McLeland, Olson, Otto, Peck, Pottorff, Quigley, Schwartz, Swenson, Tafanelli, Vickrey, Ward.

Present but not voting: None.

Absent or not voting: Lane.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 98**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 98, as follows:

On page 1, by striking all in lines 14 through 29, and by inserting the following:

“Section 1. K.S.A. 2008 Supp. 72-6431 is hereby amended to read as follows: 72-6431.

(a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the district’s general fund budget which is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the school year ~~2007-2008~~ 2009-2010 and school year ~~2008-2009~~ 2010-2011.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June 6 of each year, the amount, if any, by which a district's local effort exceeds the amount of the district's state financial aid, as determined by the state board, shall be remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 2. K.S.A. 2008 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~2007 and 2008~~ 2009 and 2010, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of K.S.A. 72-6431, and amendments thereto: Property used for residential purposes to the extent of \$20,000 of its appraised valuation.

Sec. 3. K.S.A. 2008 Supp. 79-503a is hereby amended to read as follows: 79-503a. "Fair market value" means the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. In the determination of fair market value of any real property which is subject to any special assessment, such value shall not be determined by adding the present value of the special assessment to the sales price. For the purposes of this definition it will be assumed that consummation of a sale occurs as of January 1.

Sales in and of themselves shall not be the sole criteria of fair market value but shall be used in connection with cost, income and other factors including but not by way of exclusion:

- (a) The proper classification of lands and improvements;
- (b) the size thereof;
- (c) the effect of location on value;
- (d) depreciation, including physical deterioration or functional, economic or social obsolescence;
- (e) cost of reproduction of improvements;
- (f) productivity *taking into account all restrictions imposed by the state or federal government and local governing bodies, including, but not limited to, restrictions on property rented or leased to low income individuals and families as authorized by section 42 of the federal internal revenue code of 1986, as amended;*
- (g) earning capacity as indicated by lease price, by capitalization of net income or by absorption or sell-out period;
- (h) rental or reasonable rental values *or rental values restricted by the state or federal government or local governing bodies, including, but not limited to, restrictions on property rented or leased to low income individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended;*
- (i) sale value on open market with due allowance to abnormal inflationary factors influencing such values;
- (j) restrictions *or requirements* imposed upon the use of real estate *by the state or federal government or local governing bodies, including zoning and planning boards or commissions, and including, but not limited to, restrictions or requirements imposed upon the use of real estate rented or leased to low income individuals and families, as authorized by section 42 of the federal internal revenue code of 1986, as amended;* and
- (k) comparison with values of other property of known or recognized value. The assessment-sales ratio study shall not be used as an appraisal for appraisal purposes.

The appraisal process utilized in the valuation of all real and tangible personal property for ad valorem tax purposes shall conform to generally accepted appraisal procedures which are adaptable to mass appraisal and consistent with the definition of fair market value unless otherwise specified by law.

New Sec. 4. It is the purpose of the amendments enacted in this legislation to K.S.A. 79-5a01 to carry out the mandate of the electorate of the state of Kansas who in 1992 amended Section 1 of Article 11 of the Constitution of the state of Kansas to effectuate the taxation of public utility inventories, in response to an appellate decision holding that natural gas owned by public utilities and stored for resale comes within the exemption from ad valorem taxation afforded to merchants' and manufacturers' inventories. The Legislature recognizes that the state has a number of underground formations that are ideal for the storage of natural gas and that the storage of natural gas in these formations by and on behalf of the owners, brokers and marketers of natural gas assures them a plentiful supply of natural gas during periods of peak demand and thereby contributes to their economic viability. The Legislature further recognizes that the state and its political subdivisions provide valuable governmental services that protects the natural gas and its free flow to and from these formations for which such owners, brokers and marketers of natural gas should contribute through the property tax imposed by the amendments enacted in this legislation to K.S.A. 79-5a01.

Sec. 5. K.S.A. 2008 Supp. 79-5a01 is hereby amended to read as follows: 79-5a01. (a) As used in this act, the terms "public utility" or "public utilities" means every individual, company, corporation, association of persons, brokers, *marketers*, lessees or receivers that now or hereafter own, ~~control and hold for resale stored broker or market~~ *natural gas inventories stored for resale* in an underground formation in this state, or now or hereafter are in control, manage or operate a business of:

(1) A railroad or railroad corporation if such railroad or railroad corporation owns or holds, by deed or other instrument, an interest in right-of-way, track, franchise, roadbed or trackage in this state;

(2) transmitting to, from, through or in this state telegraphic messages;

(3) transmitting to, from, through or in this state telephonic messages;

(4) transporting or distributing to, from, through or in this state natural gas, oil or other commodities in pipes or pipelines, or engaging primarily in the business of storing natural gas in an underground formation;

(5) generating, conducting or distributing to, from, through or in this state electric power;

(6) transmitting to, from, through or in this state water if for profit or subject to regulation of the state corporation commission; and

(7) transporting to, from, through or in this state cargo or passengers by means of any vessel or boat used in navigating any of the navigable watercourses within or bordering upon this state.

(b) The terms "public utility" or "public utilities" shall not include: (1) Rural water districts established under the laws of the state of Kansas; or (2) any individual, company, corporation, association of persons, lessee or receiver owning or operating an oil or natural gas production gathering line which is situated within one county in this state and does not cross any state boundary line; (3) any individual, company, corporation, association of persons, lessee or receiver owning any vessel or boat operated upon the surface of any manmade waterway located entirely within one county in the state; or (4) for all taxable years commencing after December 31, 1998, any natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use.

(c) The provisions of subsection (a) as amended by this act shall be applicable to all taxable years commencing after December 31, ~~2003~~ 2008.

Sec. 6. K.S.A. 2008 Supp. 72-6431, 79-201x, 79-503a and 79-5a01 are hereby repealed.”;

And by renumbering section 4 as section 7;

On page 1, in the title, in line 9, by striking all after “concerning”; by striking all in lines 10 and 11 and inserting “property taxation; relating to statewide levy for public schools, exemption therefrom; fair market value for certain rental property; public utilities, natural gas inventories; amending K.S.A. 2008 Supp. 72-6431, 79-201x, 79-503a and 79-5a01 and repealing the existing sections.”;



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

RICHARD CARLSON  
JEFF KING  
JULIE MENGHINI  
*Conferees on part of House*

LES DONOVAN  
DEREK SCHMIDT  
G. TOM HOLLAND  
*Conferees on part of Senate*

On motion of Rep. Carlson, the conference committee report on **H. Sub. for SB 98** was adopted.

On roll call, the vote was: Yeas 104; Nays 20; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Jack, Johnson, Kerschen, King, Kleeb, Knox, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Neal, Otto, Palmer, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwartz, Seiwert, Siegfried, Slattery, Sloan, Spalding, Svaty, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand, A. Brown, DeGraaf, Goico, Gordon, Huebert, Huntington, Kelley, Kiegerl, Kinzer, Kuether, Landwehr, McLeland, O'Brien, Olson, Patton, Schwab, Shultz, Swanson, Watkins.

Present but not voting: None.

Absent or not voting: Lane.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 134**, submits the following report:

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

On page 1, by striking all in lines 19 through 43;

By striking all on pages 2 through 19;

On page 20, by striking all in lines 1 through 12 and inserting the following:

"Section 1. K.S.A. 2008 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) "Abandon" or "abandonment" means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2008 Supp. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;  
 (5) has been abandoned or does not have a known living parent;  
 (6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 21-4204a, 41-727, subsection (j) of K.S.A. 74-8810 or subsection (m) or (n) of K.S.A. 79-3321, and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in K.S.A. 21-4204a, and amendments thereto; or

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2008 Supp. 38-2207 and 38-2208, and amendments thereto.

(f) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2008 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(g) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(h) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

(i) "Educational institution" means all schools at the elementary and secondary levels.

(j) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and amendments thereto.

(k) "Harm" means physical or psychological injury or damage.

(l) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2008 Supp. 38-2241, and amendments thereto or Indian tribe seeking to intervene that is not a party.

(m) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living

activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(n) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(o) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(p) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

(q) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(r) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 2008 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(s) "Neglect" means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation which requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 2008 Supp. 38-2217, and amendments thereto.

(t) "Parent" when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(u) "Party" means the state, the petitioner, the child, any parent of the child and an Indian child's tribe intervening pursuant to the Indian child welfare act.

(v) "Permanency goal" means the outcome of the permanency planning process which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

(w) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 2008 Supp. 38-2272, and amendments thereto.

(x) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

(y) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(z) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(aa) "Secretary" means the secretary of social and rehabilitation services or the secretary's designee.

(bb) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeter of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(cc) “Sexual abuse” means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include allowing, permitting or encouraging a child to engage in prostitution or to be photographed, filmed or depicted in pornographic material.

(dd) “Shelter facility” means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(ee) “Transition plan” means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

~~(cc)~~ (ff) “Youth residential facility” means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 2008 Supp. 38-2203 is hereby amended to read as follows: 38-2203. (a) Proceedings concerning any child who may be a child in need of care shall be governed by this code, except in those instances when the court knows or has reason to know that an Indian child is involved in the proceeding, in which case, the Indian child welfare act of 1978 (25 U.S.C. §1901 et seq.) applies. The Indian child welfare act may apply to: The filing to initiate a child in need of care proceeding (K.S.A. 2008 Supp. 38-2234, and amendments thereto); ex parte custody orders (K.S.A. 2008 Supp. 38-2242, and amendments thereto); temporary custody hearing (K.S.A. 2008 Supp. 38-2243, and amendments thereto); adjudication (K.S.A. 2008 Supp. 38-2247, and amendments thereto); burden of proof (K.S.A. 2008 Supp. 38-2250, and amendments thereto); disposition (K.S.A. 2008 Supp. 38-2255, and amendments thereto); permanency hearings (K.S.A. 2008 Supp. 38-2264, and amendments thereto); termination of parental rights (K.S.A. 2008 Supp. 38-2267, 38-2268 and 38-2269, and amendments thereto); establishment of permanent custodianship (K.S.A. 2008 Supp. 38-2268 and 38-2272, and amendments thereto); the placement of a child in any foster, pre-adoptive and adoptive home and the placement of a child in a guardianship arrangement under chapter 59, article 30 of the Kansas Statutes Annotated, and amendments thereto.

(b) Subject to the uniform child custody jurisdiction and enforcement act, K.S.A. 38-1336 through 38-1377, and amendments thereto, the district court shall have original jurisdiction of proceedings pursuant to this code.

(c) The court acquires jurisdiction over a child by the filing of a petition pursuant to this code or upon issuance of an ex parte order pursuant to K.S.A. 2008 Supp. 38-2242, and amendments thereto. When the court acquires jurisdiction over a child in need of care, jurisdiction may continue until the child has: (1) ~~Attained the age of 21 years~~ *Become 18 years of age, or until June 1 of the school year during which the child became 18 years of age if the child is still attending high school unless there is no court approved transition plan, in which event jurisdiction may continue until a transition plan is approved by the court or until the child reaches the age of 21;* (2) been adopted; or (3) been discharged by the court. Any child 18 years of age or over may request, in writing to the court, that the jurisdiction of the court cease. The court shall give notice of the request to all parties and interested parties and 30 days after receipt of the request, jurisdiction will cease.

(d) When it is no longer appropriate for the court to exercise jurisdiction over a child, the court, upon its own motion or the motion of a party or interested party at a hearing or upon agreement of all parties or interested parties, shall enter an order discharging the child. Except upon request of the child pursuant to subsection (c), the court shall not enter an order discharging a child until June 1 of the school year during which the child becomes 18 years of age if the child is in an out-of-home placement, is still attending high school and has not completed the child’s high school education.

(e) When a petition is filed under this code, a person who is alleged to be under 18 years of age shall be presumed to be under that age for the purposes of this code, unless the contrary is proved.

Sec. 3. K.S.A. 2008 Supp. 38-2232 is hereby amended to read as follows: 38-2232. (a) To the extent possible, when any law enforcement officer takes into custody a child under the age of 18 years without a court order, the child shall forthwith be delivered to the custody of the child's parent or other custodian unless there are reasonable grounds to believe that such action would not be in the best interests of the child. Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall forthwith be delivered to ~~a facility or person designated by the secretary~~; a shelter facility designated by the court, court services officer, juvenile intake and assessment worker, licensed attendant care center or other person *or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary*. If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2008 Supp. 38-2202, and amendments thereto, the law enforcement officer shall deliver the child to a juvenile detention facility or other secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays and legal holidays. No child taken into custody pursuant to this code shall be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 2008 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto. It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child to be taken into custody.

(b) When any law enforcement officer takes into custody any child as provided in subsection (b)(2) of K.S.A. 2008 Supp. 38-2231, and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments thereto, or K.S.A. 2008 Supp. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.

(c) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed as authorized by subsection (a), the facility or person shall, upon written application of the law enforcement officer, have physical custody and provide care and supervision for the child. The application shall state:

- (1) The name and address of the child, if known;
- (2) the names and addresses of the child's parents or nearest relatives and persons with whom the child has been residing, if known; and
- (3) the officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that the child would be harmed unless placed in the immediate custody of the shelter facility or other person.

(d) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.

(e) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 72 hours following admission, excluding Saturdays, Sundays and legal holidays, unless a court has entered an order pertaining to temporary custody or release.

(f) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct the release of the child at any time.

(g) When any law enforcement officer takes into custody any child as provided in subsection (d) of K.S.A. 2008 Supp. 38-2231, and amendments thereto, the child shall forthwith

be delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

Sec. 4. K.S.A. 2008 Supp. 38-2242 is hereby amended to read as follows: 38-2242. (a) The court, upon verified application, may issue ex parte an order directing that a child be held in protective custody and, if the child has not been taken into custody, an order directing that the child be taken into custody. The application shall state for each child:

- (1) The applicant's belief that the child is a child in need of care;
  - (2) that the child is likely to sustain harm if not immediately removed from the home;
  - (3) that allowing the child to remain in the home is contrary to the welfare of the child;
- and

(4) the facts relied upon to support the application, including efforts known to the applicant to maintain the family unit and prevent the unnecessary removal of the child from the child's home, or the specific facts supporting that an emergency exists which threatens the safety of the child.

(b) (1) The order of protective custody may be issued only after the court has determined there is probable cause to believe the allegations in the application are true. The order shall remain in effect until the temporary custody hearing provided for in K.S.A. 2008 Supp. 38-2243, and amendments thereto, unless earlier rescinded by the court.

(2) No child shall be held in protective custody for more than 72 hours, excluding Saturdays, Sundays and legal holidays, unless within the 72-hour period a determination is made as to the necessity for temporary custody in a temporary custody hearing. The time spent in custody pursuant to K.S.A. 2008 Supp. 38-2232, and amendments thereto, shall be included in calculating the 72-hour period. Nothing in this subsection shall be construed to mean that the child must remain in protective custody for 72 hours. If a child is in the protective custody of the secretary, the secretary shall allow at least one supervised visit between the child and the parent or parents within such time period as the child is in protective custody. The court may prohibit such supervised visit if the court determines it is not in the best interest of the child.

(c) (1) Whenever the court determines the necessity for an order of protective custody, the court may place the child in the protective custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (e);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; or

(E) the secretary, *if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.*

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the protective custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the protective custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2008 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility pursuant to an order of protective custody for a period of not to exceed 24 hours, excluding Saturdays, Sundays and legal holidays.

(d) The order of protective custody shall be served pursuant to subsection (a) of K.S.A. 2008 Supp. 38-2237, and amendments thereto, on the child's parents and any other person having legal custody of the child. The order shall prohibit the removal of the child from the court's jurisdiction without the court's permission.

(e) If the court issues an order of protective custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2008 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(f) (1) The court shall not enter an order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A)(i) the child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, the court shall provide the secretary with a written copy of any orders entered upon making the order.

Sec. 5. K.S.A. 2008 Supp. 38-2243 is hereby amended to read as follows: 38-2243. (a) Upon notice and hearing, the court may issue an order directing who shall have temporary custody and may modify the order during the pendency of the proceedings as will best serve the child's welfare.

(b) A hearing pursuant to this section shall be held within 72 hours, excluding Saturdays, Sundays and legal holidays, following a child having been taken into protective custody.

(c) Whenever it is determined that a temporary custody hearing is required, the court shall immediately set the time and place for the hearing. Notice of a temporary custody hearing shall be given to all parties and interested parties.

(d) Notice of the temporary custody hearing shall be given at least 24 hours prior to the hearing. The court may continue the hearing to afford the 24 hours prior notice or, with the consent of the party or interested party, proceed with the hearing at the designated time. If an order of temporary custody is entered and the parent or other person having custody of the child has not been notified of the hearing, did not appear or waive appearance and requests a rehearing, the court shall rehear the matter without unnecessary delay.

(e) Oral notice may be used for giving notice of a temporary custody hearing where there is insufficient time to give written notice. Oral notice is completed upon filing a certificate of oral notice.

(f) The court may enter an order of temporary custody after determining there is probable cause to believe that the: (1) Child is dangerous to self or to others; (2) child is not likely to be available within the jurisdiction of the court for future proceedings; or (3) health or welfare of the child may be endangered without further care.

(g) (1) Whenever the court determines the necessity for an order of temporary custody the court may place the child in the temporary custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (h);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; or

(E) the secretary, *if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.*

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the temporary custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the temporary custody

of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is presently alleged, but not yet adjudicated to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2008 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility, but the total amount of time that the child may be held in such facility under this section and K.S.A. 2008 Supp. 38-2242, and amendments thereto, shall not exceed 24 hours, excluding Saturdays, Sundays and legal holidays. The order of temporary custody shall remain in effect until modified or rescinded by the court or an adjudication order is entered but not exceeding 60 days, unless good cause is shown and stated on the record.

(h) If the court issues an order of temporary custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child; or attempting to visit, contact, harass or intimidate the child, other family members or witnesses. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2008 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(i) (1) The court shall not enter an order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A)(i) the child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, upon making the order the court shall provide the secretary with a written copy.

(j) If the court enters an order of temporary custody that provides for placement of the child with a person other than the parent, the court shall make a child support determination pursuant to K.S.A. 2008 Supp. 38-2277, and amendments thereto.

Sec. 6. K.S.A. 2008 Supp. 38-2255 is hereby amended to read as follows: 38-2255. (a) *Considerations*. Prior to entering an order of disposition, the court shall give consideration to:

(1) The child's physical, mental and emotional condition;

(2) the child's need for assistance;

(3) the manner in which the parent participated in the abuse, neglect or abandonment of the child;

(4) any relevant information from the intake and assessment process; and

(5) the evidence received at the dispositional hearing.

(b) *Placement with a parent*. The court may place the child in the custody of either of the child's parents subject to terms and conditions which the court prescribes to assure the proper care and protection of the child, including, but not limited to:

(1) Supervision of the child and the parent by a court services officer;

(2) participation by the child and the parent in available programs operated by an appropriate individual or agency; and

(3) any special treatment or care which the child needs for the child's physical, mental or emotional health and safety.

(c) *Removal of a child from custody of a parent*. The court shall not enter an order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (1)(A) The child is likely to sustain harm if not immediately removed from the home;

(B) allowing the child to remain in home is contrary to the welfare of the child; or

(C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.



(d) *Custody of a child removed from the custody of a parent.* If the court has made the findings required by subsection (c), the court shall enter an order awarding custody to a relative of the child or to a person with whom the child has close emotional ties, to any other suitable person, to a shelter facility, to a youth residential facility or, *if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse*, to the secretary. Custody awarded under this subsection shall continue until further order of the court.

(1) When custody is awarded to the secretary, the secretary shall consider any placement recommendation by the court and notify the court of the placement or proposed placement of the child within 10 days of the order awarding custody.

(A) After providing the parties or interested parties notice and opportunity to be heard, the court may determine whether the secretary's placement or proposed placement is contrary to the welfare or in the best interests of the child. In making that determination the court shall consider the health and safety needs of the child and the resources available to meet the needs of children in the custody of the secretary. If the court determines that the placement or proposed placement is contrary to the welfare or not in the best interests of the child, the court shall notify the secretary, who shall then make an alternative placement.

(B) The secretary may propose and the court may order the child to be placed in the custody of a parent or parents if the secretary has provided and the court has approved an appropriate safety action plan which includes services to be provided. The court may order the parent or parents and the child to perform tasks as set out in the safety action plan.

(2) The custodian designated under this subsection shall notify the court in writing at least 10 days prior to any planned placement with a parent. The written notice shall state the basis for the custodian's belief that placement with a parent is no longer contrary to the welfare or best interest of the child. Upon reviewing the notice, the court may allow the custodian to proceed with the planned placement or may set the date for a hearing to determine if the child shall be allowed to return home. If the court sets a hearing on the matter, the custodian shall not return the child home without written consent of the court.

(3) The court may grant any person reasonable rights to visit the child upon motion of the person and a finding that the visitation rights would be in the best interests of the child.

(4) The court may enter an order restraining any alleged perpetrator of physical, mental or emotional abuse or sexual abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2008 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(5) The court shall provide a copy of any orders entered within 10 days of entering the order to the custodian designated under this subsection.

(e) *Further determinations regarding a child removed from the home.* If custody has been awarded under subsection (d) to a person other than a parent, a permanency plan shall be provided or prepared pursuant to K.S.A. 2008 Supp. 38-2264, and amendments thereto. If a permanency plan is provided at the dispositional hearing, the court may determine whether reintegration is a viable alternative or, if reintegration is not a viable alternative, whether the child should be placed for adoption or a permanent custodian appointed. In determining whether reintegration is a viable alternative, the court shall consider:

(1) Whether a parent has been found by a court to have committed one of the following crimes or to have violated the law of another state prohibiting such crimes or to have aided and abetted, attempted, conspired or solicited the commission of one of these crimes: Murder in the first degree, K.S.A. 21-3401, and amendments thereto, murder in the second degree, K.S.A. 21-3402, and amendments thereto, capital murder, K.S.A. 21-3439, and amendments thereto, voluntary manslaughter, K.S.A. 21-3403, and amendments thereto, or a felony battery that resulted in bodily injury;

(2) whether a parent has subjected the child or another child to aggravated circumstances;

(3) whether a parent has previously been found to be an unfit parent in proceedings under this code or in comparable proceedings under the laws of another state or the federal government;

- (4) whether the child has been in extended out of home placement;
- (5) whether the parents have failed to work diligently toward reintegration;
- (6) whether the secretary has provided the family with services necessary for the safe return of the child to the home; and
- (7) whether it is reasonable to expect reintegration to occur within a time frame consistent with the child's developmental needs.

(f) *Proceedings if reintegration is not a viable alternative.* If the court determines that reintegration is not a viable alternative, proceedings to terminate parental rights and permit placement of the child for adoption or appointment of a permanent custodian shall be initiated unless the court finds that compelling reasons have been documented in the case plan why adoption or appointment of a permanent custodian would not be in the best interests of the child. If compelling reasons have not been documented, the county or district attorney shall file a motion within 30 days to terminate parental rights or a motion to appoint a permanent custodian within 30 days and the court shall hold a hearing on the motion within 90 days of its filing. No hearing is required when the parents voluntarily relinquish parental rights or consent to the appointment of a permanent custodian.

(g) *Additional Orders.* In addition to or in lieu of any other order authorized by this section:

(1) The court may order the child and the parents of any child who has been adjudicated a child in need of care to attend counseling sessions as the court directs. The expense of the counseling may be assessed as an expense in the case. No mental health provider shall charge a greater fee for court-ordered counseling than the provider would have charged to the person receiving counseling if the person had requested counseling on the person's own initiative.

(2) If the court has reason to believe that a child is before the court due, in whole or in part, to the use or misuse of alcohol or a violation of the uniform controlled substances act by the child, a parent of the child, or another person responsible for the care of the child, the court may order the child, parent of the child or other person responsible for the care of the child to submit to and complete an alcohol and drug evaluation by a qualified person or agency and comply with any recommendations. If the evaluation is performed by a community-based alcohol and drug safety program certified pursuant to K.S.A. 8-1008, and amendments thereto, the child, parent of the child or other person responsible for the care of the child shall pay a fee not to exceed the fee established by that statute. If the court finds that the child and those legally liable for the child's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary.

(3) If child support has been requested and the parent or parents have a duty to support the child, the court may order one or both parents to pay child support and, when custody is awarded to the secretary, the court shall order one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent is already subject to an order to pay support for the child. If the parent is not presently ordered to pay support for any child who is subject to the jurisdiction of the court and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 2008 Supp. 38-2277, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 23-4,105 et seq., and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 2008 Supp. 38-2279, and amendments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

Sec. 7. K.S.A. 2008 Supp. 38-2202, 38-2203, 38-2232, 38-2242, 38-2243 and 38-2255 are hereby repealed.”;

And by renumbering the remaining section accordingly;

Also on page 20, in line 14, by striking “Kansas register” and inserting “statute book”;

In the title, by striking all in lines 12 through 16 and inserting the following: "AN ACT concerning the Kansas code for care of children; amending K.S.A. 2008 Supp. 38-2202, 38-2203, 38-2232, 38-2242, 38-2243 and 38-2255 and repealing the existing sections.";

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

LANCE KINZER  
JEFF WHITHAM  
JANICE L. PAULS  
*Conferees on part of House*

THOMAS C. OWENS  
DEREK SCHMIDT  
DAVID HALEY  
*Conferees on part of Senate*

On motion of Rep. Kinzer, the conference committee report on **SB 134** was adopted.

On roll call, the vote was: Yeas 122; Nays 2; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Dillmore, Ward.

Present but not voting: None.

Absent or not voting: Lane.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 145**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 145, as follows:

On page 1, preceding line 13, by inserting the following:

"Section 1. K.S.A. 8-1522 is hereby amended to read as follows: 8-1522. Whenever any roadway has been divided into two ~~(2)~~ or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply.

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is divided into three ~~(3)~~ lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

(c) Upon a highway located outside the corporate limits of any city divided into two lanes of traffic proceeding in the same direction, all vehicles shall be driven in the right lane except when:

- (1) Overtaking and passing another vehicle;
- (2) preparing to make a proper left turn;

- (3) otherwise directed by official traffic-control devices; or
- (4) otherwise required by other provisions of law.
- (d) Upon a highway located outside the corporate limits of any city divided into three or more lanes of traffic proceeding in the same direction, vehicles shall not be driven in the far left lane except when:
  - (1) Overtaking and passing another vehicle;
  - (2) preparing to make a proper left turn;
  - (3) otherwise directed by official traffic-control devices; or
  - (4) otherwise required by other provisions of law.
- (e) The provisions of subsections (c) and (d) shall not apply to authorized emergency vehicles, law enforcement vehicles, Kansas turnpike authority vehicles or department of transportation vehicles performing construction or maintenance work.
- (f) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.
- (g) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.
- (h) From and after July 1, 2009, and prior to July 1, 2010, a law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (c) or (d).

Sec. 2. K.S.A. 2008 Supp. 8-1911 is hereby amended to read as follows: 8-1911. (a) The secretary of transportation with respect to highways under the secretary's jurisdiction and local authorities with respect to highways under their jurisdiction, in their discretion, upon application, may issue a special permit, which term shall include an authorization number, to the owner or operator of an oversize or overweight vehicle. The special permit shall authorize the special permit holder to operate or move a vehicle or combination of vehicles which exceed the limitations of this act, on a route, or routes, designated in the special permit and in accordance with the terms and conditions of the special permit.

(b) The application for the permit shall describe the vehicle, or combination of vehicles and all loads or cargo for which the special permit is requested, the route or routes on which operation is sought and whether a single trip or annual operation is requested. One special permit may be issued for a vehicle or combination of vehicles, that are both oversize and overweight. A special permit under this section may be for a single trip or for annual operation. The special permit shall designate the route or routes that may be used and any other terms, conditions or restrictions deemed necessary. The secretary of transportation shall charge a fee for each permit or authorization number issued as provided for in subsection (f). No permit shall be required to authorize the moving or operating upon any highway of farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms, or vehicles owned by counties, cities and other political subdivisions of the state, except that this sentence shall not: (1) Exempt trucks owned by counties, cities and other political subdivisions specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations from the maximum gross weight limitations contained in the table in K.S.A. 8-1909, and amendments thereto; or (2) authorize travel on interstate highways.

(c) A permit shall be valid only when the registration on the power unit is equal to or exceeds the total gross weight of the vehicle. When the gross weight of the vehicle exceeds the upper limit of the available registration, the maximum amount of registration must be purchased. The provisions of this subsection shall not apply to a wrecker or tow truck, as defined in K.S.A. 66-1329, and amendments thereto, and registered in accordance with the provisions of K.S.A. 8-143, and amendments thereto.

(d) The secretary or local authority may issue or withhold the permit at the secretary's or local authority's discretion or may limit the number of trips, or establish seasonal or other time limitations within which the vehicles described may be operated on the highways, or may otherwise limit or prescribe conditions of operations of such vehicle or combination of vehicles, when necessary to assure against undue damage to the road. The secretary or local

authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(e) Every permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. It shall be unlawful for any person to violate any of the terms or conditions of special permit.

(f) The secretary of transportation shall charge and collect fees as follows:

- (1) ~~Five~~ *Twenty* dollars for each single-trip permit;
- (2) *thirty dollars for each single-trip permit for a large structure, as defined by rules and regulations;*
- (3) *fifty dollars for each single-trip permit for a superload, as defined by rules and regulations;*
- ~~(4)~~ (4) twenty-five dollars for a five-year permit for vehicles authorized to move bales of hay under subsection (j) on noninterstate highways;
- ~~(5)~~ (5) one hundred and ~~twenty-five~~ *fifty* dollars for each annual permit; or
- ~~(6)~~ (6) two thousand dollars per year for each qualified carrier company for special vehicle combination permits authorized under K.S.A. 8-1915, and amendments thereto, plus \$50 per year for each power unit operating under such annual permit.

No fees shall be charged for permits issued for vehicles owned by counties, cities and other political subdivisions of the state. All permit fees received under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund. The secretary may adopt rules and regulations for payment and collection of all fees. The secretary may adopt rules and regulations implementing the provisions of this section to prescribe standards for any permit program to enhance highway safety.

(g) If any local authority does not desire to exercise the powers conferred on it by this section to issue or deny permits then such a permit from the local authority shall not be required to operate any such vehicle or combination of vehicles on highways under the jurisdiction of such local authority, but in no event shall the jurisdiction of the local authority be construed as extending to any portion of any state highway, any city street designated by the secretary as a connecting link in the state highway system or any highway within the national system of interstate and defense highways, which highways and streets, for the purpose of this section, shall be under the jurisdiction of the secretary.

(h) A house trailer, manufactured home or mobile home which exceeds the width as provided in subsection (a) of K.S.A. 8-1902, and amendments thereto, may be moved on the highways of this state by obtaining a permit as provided in this section, if:

- (1) The width of such house trailer, manufactured home or mobile home does not exceed 16½ feet;
- (2) the driver of the vehicle pulling the house trailer, manufactured home or mobile home has a valid driver's license; and
- (3) the driver carries evidence that the housetrailer, manufactured home or mobile home, and the vehicle pulling it, are covered by motor vehicle liability insurance with limits of not less than \$100,000 for injury to any one person, and \$300,000 for injury to persons in any one accident, and \$25,000 for injury to property.

For the purposes of this subsection, the terms "manufactured home" and "mobile home" shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto.

(i) Upon proper application stating the description and registration of each power unit, the secretary of transportation shall issue permits for a period, from May 1 to November 15, for custom combine operators to tow custom-combine equipment on a trailer within legal dimensions or a trailer especially designed for the transportation of combines or combine equipment at the rate of \$10 per power unit. Each application shall be accompanied by information as required by the secretary. The permit shall allow custom combine operators to haul two combine headers on designated interstate highways provided:

- (1) The vehicle plus the load do not exceed 14 feet in width;
- (2) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset; and

(3) the vehicle plus the load are not overweight.

(j) Except as provided in paragraph (2) of subsection (d) of K.S.A. 8-1902, and amendments thereto, a vehicle loaded with bales of hay which exceeds the width as provided in subsection (a) of K.S.A. 8-1902, and amendments thereto, may be moved on any highway designated as a part of the national network of highways by obtaining a permit as provided by this section, if:

(1) The vehicle plus the bales of hay do not exceed 12 feet in width;

(2) the vehicle plus the bales of hay do not exceed the height authorized under K.S.A. 8-1904, and amendments thereto;

(3) the move is completed during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset;

(4) the vehicle plus the load are not overweight; and

(5) the vehicle plus the load comply with the signing and marking requirements of paragraph (3) of subsection (d) of K.S.A. 8-1902, and amendments thereto.

(k) If it is determined by the secretary of transportation that a person has been granted a permit and has not complied with the applicable provisions of this section and the rules and regulations of the secretary of transportation relating thereto, the secretary may cancel the permit and may refuse to grant future permits to the individual.”;

And by renumbering sections accordingly;

Also on page 1, in line 27, preceding “K.S.A.” by inserting “K.S.A. 8-1522 and”; also in line 27, by striking “8-1916 is” and inserting “8-1911 and 8-1916 are”;

In the title, in line 9, by striking “cotton modules” and inserting “special permits; relating to driving in the right lane”; in line 10, by striking all preceding “and” and inserting “8-1522 and K.S.A. 2008 Supp. 8-1911 and 8-1916”; also in line 10, by striking “section” and inserting “sections”;

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

GARY K. HAYZLETT

JENE VICKREY

MARGARET LONG

*Conferees on part of House*

DWAYNE UMBARGER

BOB MARSHALL

KELLY KULTALA

*Conferees on part of Senate*

On motion of Rep. Hayzlett, the conference committee report on **H. Sub. for SB 145** was adopted.

On roll call, the vote was: Yeas 98; Nays 26; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, Dillmore, Faber, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Johnson, Kerschen, King, Kleeb, Knox, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Morrison, Myers, Neighbor, Neufeld, O’Neal, Otto, Palmer, Pauls, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown, Brunk, Burgess, DeGraaf, Donohoe, Feuerborn, Gordon, Huebert, Huntington, Jack, Kelley, Kiegerl, Kinzer, Kuether, Landwehr, Merrick, Moxley, Navinsky, O’Brien, Olson, Patton, Peck, Quigley, Vickrey, Ward, Watkins.

Present but not voting: None.

Absent or not voting: Lane.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2172**, 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.

LES DONOVAN  
DEREK SCHMIDT  
G. TOM HOLLAND  
*Conferees on part of House*

RICHARD CARLSON  
JEFF KING  
*Conferees on part of Senate*

On motion of Rep. Carlson, the conference committee report on **HB 2172** was adopted. Speaker O'Neal thereupon appointed Reps. Carlson, King and Menghini as second conferees on the part of the House.

**REPORTS OF STANDING COMMITTEES**

Committee on **Health and Human Services** recommends **HR 6019** be adopted.

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

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**AFTERNOON SESSION**

The House met pursuant to recess with Speaker O'Neal in the chair.

**MESSAGE FROM THE SENATE**

Announcing passage of **HB 2130**, as amended.

The Senate adopts conference committee report on **SB 11**.

The Senate adopts conference committee report on **SB 19**.

The Senate adopts conference committee report on **SB 44**.

The Senate adopts conference committee report on **SB 87**.

The Senate adopts conference committee report on **SB 154**.

The Senate adopts conference committee report on **SB 225**.

The Senate adopts conference committee report on **Sub. HB 2008**.

The Senate adopts the conference committee report to agree to disagree on **SB 171** and has appointed Senators V. Schmidt, Apple and Faust-Goudeau as second conferees on the part of the Senate.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 28**, submits the following report:

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

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

By striking all on pages 2 through 12;

On page 13, by striking all in lines 1 through 6 and inserting the following:

“Section 1. K.S.A. 2008 Supp. 60-4104 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. ~~2006 Supp.~~ 21-3763, and amendments thereto;
- (h) violations of K.S.A. ~~2006 Supp.~~ 21-4019, and amendments thereto;
- (i) medicaid fraud, K.S.A. 21-3844 et seq., and amendments thereto;
- (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) 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) 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, K.S.A. ~~2006 Supp.~~ 21-3451, and amendments thereto;
- (n) *unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, K.S.A. 21-4315, and amendments thereto;*
- (o) *unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, K.S.A. 21-4319, and amendments thereto; and*
- (p) *prostitution, K.S.A. 21-3512, and amendments thereto, promoting prostitution, K.S.A. 21-3513, and amendments thereto, and patronizing a prostitute, K.S.A. 21-3515, and amendments thereto.*

Sec. 2. K.S.A. 2008 Supp. 60-4104 is hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 18, and inserting  
 “AN ACT concerning civil procedure; relating to covered offenses and conduct giving rise to forfeiture; amending K.S.A. 2008 Supp. 60-4104 and repealing the existing section.”;

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

PAT COLLOTON  
 JOE PATTON  
 MELODY MCCRAY-MILLER  
*Conferees on part of House*

THOMAS C. OWENS  
 DEREK SCHMIDT  
 DAVID HALEY  
*Conferees on part of Senate*

On motion of Rep. Colloton, the conference committee report on **Sub. SB 28** was adopted.

On roll call, the vote was: Yeas 97; Nays 27; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Benlon, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Crum, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grange, Grant, Hawk, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, Horst, Huntington, Jack, Kelley, Kerschen, King, Kinzer, Kleeb, Kuether, Landwehr, Lane, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, Menghini, Morrison, Moxley, Myers, Navinsky, Neighbor, O'Brien, O'Neal, Olson, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwartz, Seiwert, Shultz, Slatery, Sloan, Spalding, Svaty, Swanson, Swenson, Talia, Tietze, Trimmer, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, Worley, Yoder.



Nays: Aurand, Bethell, A. Brown, Carlson, DeGraaf, Donohoe, Faber, George, Goico, Gordon, Hayzlett, M. Holmes, Huebert, Johnson, Knox, Light, McLeland, Merrick, Neufeld, Otto, Peck, Powell, Schwab, Siegfried, Tafanelli, Vickrey, K. Wolf.

Present but not voting: None.

Absent or not voting: Kiegerl.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 41**, 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 4, after line 41, by inserting the following:

“Sec. 2. K.S.A. 2008 Supp. 72-7535 is hereby amended to read as follows: 72-7535. (a)

In order to equip students with the knowledge and skills needed to become self-supporting and to enable students to make critical decisions regarding personal finances, the state board of education shall authorize and assist in the implementation of programs on teaching personal financial literacy. ~~The components of personal financial literacy covered in the program shall include, but not be limited to, consumer financial education, personal finance and personal credit.~~

(b) The state board of education shall develop a curriculum, materials and guidelines that local boards of education and governing authorities of accredited nonpublic schools may use in implementing the program of instruction on personal financial literacy. *The state board of education shall adopt a glossary of personal financial literacy terms which shall be used by school districts when implementing the program on personal financial literacy.*

(c) The state board of education shall develop *state curriculum standards and objectives* for personal financial literacy, for all grade levels, within the existing mathematics curriculum or another appropriate subject-matter curriculum.

(d) The state board of education shall encourage school districts when selecting textbooks for mathematics, economics ~~or similar, family and consumer science, accounting or other appropriate~~ courses, to select those textbooks which contain substantive provisions on personal finance, including personal budgeting, credit, debt management and ~~similar personal financial topics~~ *other topics concerning personal financial literacy.*

(e) *The state board of education shall include questions relating to personal financial literacy in the statewide assessments for mathematics or social studies required under K.S.A. 72-6439, and amendments thereto. When the statewide assessments for mathematics or social studies are reviewed or rewritten, the state board of education shall examine the questions relating to personal financial literacy and rewrite such questions in order to determine if programs on personal financial literacy are equipping students with the knowledge and skills needed to become self-supporting and enabling students to make critical decisions regarding personal finances.*

New Sec. 3. (a) The state board of education shall designate a period of time each school year as a time for disability history and awareness.

(b) The state board of education shall develop objectives and guidelines for disability history and awareness, for all grade levels, within the existing curriculum for history, social studies or other appropriate subject-matter curriculum. The components of disability history and awareness may include, but not be limited to, the events and time lines relating to the development and evolution of services provided to individuals with disabilities and information relating to the contributions of specific individuals with disabilities, including the contributions of acknowledged national leaders.

(c) The goals of disability history and awareness instruction include:

(1) Encouraging the better treatment of individuals with disabilities, especially for school-age children.

(2) Increasing attention to the prevention of bullying or harassment of students with disabilities.

(3) Encouraging the development of self-esteem in individuals with disabilities.

(4) Encouraging individuals with disabilities to obtain a postsecondary education which will empower such individuals to enter the workforce and contribute to their communities.

(5) Reaffirming the local, state and federal commitment to providing an equal opportunity for, and the full inclusion in society of, all individuals with disabilities.

(d) Each school district shall include disability history and awareness within the district's curriculum as deemed appropriate by the district.

New Sec. 4. Each postsecondary educational institution is encouraged to conduct and promote on its campus activities which provide education, understanding and awareness of individuals with disabilities, disability history and awareness.”;

And by renumbering sections accordingly;

Also on page 4, in line 43, after “72-6445a” by inserting “and 72-7535”;

In the title, in line 13, by striking all before the semicolon where it appears for the last time and inserting “powers and duties thereof; relating to school finance”; in line 14, after “72-6445a” by inserting “and 72-7535”; in line 15, by striking “section” and inserting “sections”;

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

CLAY AURAND  
DEENA HORST  
VALDENIA C. WINN  
*Conferees on part of House*

JEAN KURTIS SCHODORF  
JOHN VRATIL  
ANTHONY HENSLEY  
*Conferees on part of Senate*

On motion of Rep. Aurand, the conference committee report on **SB 41** was adopted.

Call of the House was demanded.

On roll call, the vote was: Yeas 119; Nays 5; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleebl, Knox, Kuether, Lane, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Henry, Light, Peck, Tafanelli, Whitham.

Present but not voting: None.

Absent or not voting: Landwehr.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 84**, submits the following report:

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

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

On page 2, by striking all in lines 1 through 22; following line 22, by inserting:

“Section 1. K.S.A. 2008 Supp. 10-1116a is hereby amended to read as follows: 10-1116a. The limitations on expenditures imposed under the cash-basis law shall not apply to:

(a) Expenditures in excess of current revenues made for municipally owned and operated utilities out of the fund of such utilities caused by, or resulting from the meeting of, extraor-

dinary emergencies including drought emergencies. In such cases expenditures in excess of current revenues may be made by declaring an extraordinary emergency by resolution adopted by the governing body and such resolution shall be published at least once in a newspaper of general circulation in such city. Thereupon, such governing body may issue interest bearing no-fund warrants on such utility fund in an amount, including outstanding previously issued no-fund warrants, not to exceed 25% of the revenues from sales of service of such utility for the preceding year. Such warrants shall be redeemed within three years from date of issuance and shall bear interest at a rate of not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto. Upon the declaration of a drought emergency, the governing body may issue such warrants for water system improvement purposes in an amount not to exceed 50% of the revenue received from the sale of water for the preceding year. Such warrants shall be redeemed within five years from the date of issuance and shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto.

(b) Expenditures in any month by school districts which are in excess of current revenues if the deficit or shortage in revenues is caused by, or a result of, the payment of state aid after the date prescribed for the payment of state aid during such month under K.S.A. 72-6417 or 72-6434, and amendments thereto.

~~The provisions of this subsection shall apply to expenditures made in school year 2001-2002, school year 2002-2003, school year 2003-2004, school year 2004-2005, school year 2005-2006 and school year 2006-2007.~~

New Sec. 2. (a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is \$4,433 or less.

(2) The board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was \$4,433 or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(b) (1) The provisions of this subsection shall apply in any school year in which the amount appropriated for state aid for special education and related services is less than the amount appropriated for state aid for special education and related services in school year 2008-2009.

(2) The board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(c) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

(d) To the extent that the provisions of K.S.A. 72-6433, and amendments thereto, conflict with this section, this section shall control.

Sec. 3. K.S.A. 2008 Supp. 72-6433 is hereby amended to read as follows: 72-6433. (a) As used in this section:

(1) "State prescribed percentage" means 31% of state financial aid of the district in the current school year.

(2) "Authorized to adopt a local option budget" means that a district has adopted a resolution under this section, has published the same, and either ~~that~~ the resolution was not protested or ~~that~~ it was protested and an election was held by which the adoption of a local option budget was approved.

(b) In each school year, the board of any district may adopt a local option budget which does not exceed the state prescribed percentage.

(c) Subject to the limitation of subsection (b), in each school year, the board of any district may adopt, by resolution, a local option budget in an amount not to exceed:

(1) (A) The amount which the board was authorized to adopt in accordance with the provisions of this section in effect prior to its amendment by this act; plus

(B) the amount which the board was authorized to adopt pursuant to any resolution currently in effect; plus

(C) the amount which the board was authorized to adopt pursuant to K.S.A. 72-6444, and amendments thereto, if applicable to the district; or

(2) the state-wide average for the preceding school year as determined by the state board pursuant to subsection (j).

Except as provided by subsection (e), the adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. Such resolution shall be effective upon adoption and shall require no other procedure, authorization or approval.

(d) If the board of a district desires to increase its local option budget authority above the amount authorized under subsection (c) or if the board was not authorized to adopt a local option budget in 2006-2007, the board may adopt, by resolution, such budget in an amount not to exceed the state prescribed percentage. The adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. The resolution shall be published at least once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. \_\_\_\_\_  
\_\_\_\_\_ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year in an amount not to exceed \_\_\_\_\_% of the amount of state financial aid. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

~~This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, County, Kansas, on the day of \_\_\_\_\_, \_\_\_\_\_.~~

\_\_\_\_\_  
Clerk of the board of education.

CERTIFICATE

*This is to certify that the above resolution was duly adopted by the board of education of unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_.*

\_\_\_\_\_  
Clerk of the board of education.

All of the blanks in the resolution shall be filled as is appropriate. If a sufficient petition is not filed, the board may adopt a local option budget. If a sufficient petition is filed, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto. If the board fails to notify the county election officer within 30 days after a sufficient petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(e) Any resolution authorizing the adoption of a local option budget in excess of 30% of the state financial aid of the district in the current school year shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the school district voting at an election called and held thereon. The election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto.

(f) Unless specifically stated otherwise in the resolution, the authority to adopt a local option budget shall be continuous and permanent. The board of any district which is authorized to adopt a local option budget may choose not to adopt such a budget or may adopt

a budget in an amount less than the amount authorized. If the board of any district whose authority to adopt a local option budget is not continuous and permanent refrains from adopting a local option budget, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget.

(g) The board of any district may initiate procedures to renew or increase the authority to adopt a local option budget at any time during a school year after the tax levied pursuant to K.S.A. 72-6435, and amendments thereto, is certified to the county clerk under any existing authorization.

(h) The board of any district that is authorized to adopt a local option budget prior to the effective date of this act under a resolution which authorized the adoption of such budget in accordance with the provisions of this section in effect prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(i) Any resolution adopted pursuant to this section may revoke or repeal any resolution previously adopted by the board. If the resolution does not revoke or repeal previously adopted resolutions, all resolutions which are in effect shall expire on the same date. The maximum amount of the local option budget of a school district under all resolutions in effect shall not exceed the state prescribed percentage in any school year.

(j) (1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under paragraph (3) and subsection (e) of K.S.A. 72-6434, and amendments thereto, amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to any program weighted fund or categorical fund of the district. Amounts in the supplemental general fund attributable to any percentage over 25% of state financial aid determined for the current school year may be transferred to the capital improvements fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local option budget in excess of 25%.

(3) Amounts in the supplemental general fund may not be expended for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) (A) Except as provided in paragraph (B), any unexpended budget remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be maintained in such fund.

(B) If the district received supplemental general state aid in the school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the unexpended budget remaining by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district or remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(k) Each year the state board of education shall determine the statewide average percentage of local option budgets legally adopted by school districts for the preceding school year.

(l) *The provisions of this section shall be subject to the provisions of section 2, and amendments thereto.*

Sec. 4. K.S.A. 2008 Supp. 10-1116a, 72-6433 and 72-6433c 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 lines 12, 13 and 14; following line 14, by inserting:

“AN ACT concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 10-1116a and 72-6433 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 72-6433c.

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

CLAY AURAND  
DEENA HORST  
VALDENIA C. WINN  
*Conferees on part of House*

JEAN SCHODORF  
JOHN VRATIL  
ANTHONY HENSLEY  
*Conferees on part of Senate*

On motion of Rep. Aurand to adopt the conference committee report on **SB 84**, Rep. Winn offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion prevailed.

Speaker O’Neal thereupon appointed Reps. Aurand, Horst and Winn as second conferees on the part of the House.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 97**, submits the following report:

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

On page 1, by striking lines 16 through 35, and inserting the following:

“New Section 1. (a) The provisions of sections 1 through 7, and amendments thereto, shall be known and may be cited as the promoting employment across Kansas act.

(b) It shall be the intent of this act to foster economic development and the creation of new jobs and opportunities for the citizens of Kansas through incentivizing the repatriation of business facilities, other operations and jobs from foreign countries and to incentivize the relocation of business facilities, other operations and jobs from other states to Kansas. The primary objective of this legislation is economic development for Kansas. The state of Kansas, the secretary of the department of commerce and the department of commerce shall solicit and approve applications by qualified companies pursuant to this act.

New Sec. 2. As used in this act, unless the context otherwise requires:

(a) “Act” means the provisions of sections 1 through 7, and amendments thereto.

(b) “County average wage” means the average wage paid to employees located in the county where the qualified company intends to employ new employees as reported by the department of labor in its annual report for the previous year.

(c) “Department” means the department of commerce.

(d) “High-impact project” means a business development project for which the qualified company shall meet the requirements of subsection (c) of section 3, and amendments thereto.

(e) “NAICS” means the North American industry classification system.

(f) “Metropolitan county” means the county of Douglas, Johnson, Sedgwick, Shawnee or Wyandotte.

(g) “New employee” means a person newly employed by the qualified company in the qualified company’s business operating in Kansas during the taxable year for which benefits are sought under section 3, and amendments thereto. A person shall be deemed to be so engaged if such person performs duties in Kansas in connection with the operation of the Kansas business on: (1) A regular, full-time basis; or (2) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year. Employees acquired or relocated to Kansas from another state through an expansion or relocation of a business operation to Kansas from another state shall be considered as new employees.

(h) “Non-metropolitan county” means any county that is not a metropolitan county.

(i) (1) "Qualified company" means any corporation, partnership or other entity, organized for profit making available to its full-time employees adequate health insurance coverage and paying at least 50% of the premium for such health insurance, which meets the requirements of section 3, and amendments thereto.

(2) "Qualified company" shall not include any corporation, partnership or other entity: (A) Which is identified by any of the following NAICS code groups, sectors or subsectors:

- (i) Industry group 7132 or 8131;
- (ii) sectors 44, 45, 61, 92 or 221 (including water and sewer services); or
- (iii) subsector 722;

(B) which is a bioscience company, as defined in K.S.A. 2008 Supp. 74-99b33, and amendments thereto;

(C) which is delinquent in the payment of any nonprotested taxes or any other amounts due to the federal government, the state of Kansas or any other political taxing subdivision; or

(D) which has filed for or has publicly announced its intention to file for bankruptcy protection.

(3) Notwithstanding any provision of this subsection, except for paragraphs (2)(B), (C) and (D), a company may be deemed a qualified company if such company's headquarters or administrative offices located in this state serve an international or multi-state territory and such company meets the requirements of section 3, and amendments thereto.

(j) "Secretary" means the secretary of the department of commerce.

New Sec. 3. (a) In order to qualify for benefits under this act a qualified company shall relocate an existing business facility, office, department or other operation located outside the state of Kansas, whether located in a foreign country or another state, and locate the jobs from such business facility, office, department or other operation to Kansas. A qualified company may contract with an unrelated third party to perform services whereby the third party serves as the legal employer of the new employees providing services to the qualified company and such services are performed in Kansas and the third party and the new employees are subject to Kansas state withholding.

(b) Any qualified company that locates its business operation in a metropolitan county and will hire at least 10 new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to section 4, and amendments thereto, or any qualified company that locates its business operation in a non-metropolitan county and will hire at least five new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to section 4, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees for a period of:

(1) Five years if the new employees are compensated at a rate equal to at least 100% of the county average wage;

(2) six years if the new employees are compensated at a rate equal to at least 110% of the county average wage; or

(3) seven years if the new employees are compensated at a rate equal to at least 120% of the county average wage.

(c) Any qualified company that engages in a high-impact project whereby the qualified company will hire at least 100 new employees within five years from the date the qualified company enters into an agreement with the secretary pursuant to section 4, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees for a period of:

(1) Seven years if the new employees are compensated at a rate equal to at least 100% of the county average wage;

(2) eight years if the new employees are compensated at a rate equal to at least 110% of the county average wage;

(3) nine years if the new employees are compensated at a rate equal to at least 120% of the county average wage; or

(4) ten years if the new employees are compensated at a rate equal to at least 140% of the county average wage.

(d) In the event that a qualified company contracts with a third party as described in paragraphs (a)(3) and (4), the third party shall remit payments equal to the amount of Kansas payroll withholding taxes the qualified company is eligible to retain under this section to the qualified company, and report such amount to the department of revenue as required pursuant to subsection (a) of section 5, and amendments thereto.

New Sec. 4. (a) Any qualified company meeting the requirements of section 3, and amendments thereto, may apply to the secretary for benefits under this act. The application shall be submitted on a form and in a manner prescribed by the secretary, and shall include: (1) Evidence that the applicant is a qualified company; and (2) evidence that the applicant meets the requirements of section 3, and amendments thereto.

(b) The secretary shall either approve or disapprove the application. Any qualified company whose application is approved shall be eligible to receive benefits under this act as of the date such qualified company enters into an agreement with the secretary in accordance with this section.

(c) Upon approval of an application for benefits under this act, the secretary may enter into an agreement with the qualified company for benefits under this act. If necessary, the secretary may also enter into an agreement with any third party described in subsection (a) of section 3, and amendments thereto, or such third party may be a party to the agreement between the qualified company and the secretary. The agreement shall commit the secretary to certify to the secretary of revenue: (1) That the qualified company is eligible to receive benefits under this act; (2) the number of new employees hired by the qualified company; and (3) the amount of gross wages being paid to each new employee.

(d) The agreement between the qualified company and the secretary shall be entered into before any benefits may be provided under this act, and shall specify that should the qualified company fail to comply with the terms and conditions set forth in the agreement, or fails to comply with the provisions set forth in this act, the secretary may terminate the agreement, and the qualified company shall not be entitled to any further benefits provided under this act and shall be required to remit to the state an amount equal to the aggregate Kansas payroll withholding taxes retained by the qualified company, or remitted to the qualified company by a third party, pursuant to this act as of the date the agreement is terminated.

(e) A qualified company that is already receiving benefits pursuant to this act may apply to the secretary for additional benefits if the qualified company meets the requirements of section 3, and amendments thereto.

(f) A qualified company seeking benefits shall not be allowed to participate in the IMPACT program, or any program pursuant to K.S.A. 74-50,102, and amendments thereto, or any other program in which any portion of such qualified company's Kansas payroll withholding taxes have been pledged to finance indebtedness or transferred to or for the benefit of such company. A qualified company shall not be allowed to claim any credits under K.S.A. 79-32,153, 79-32,160a or 79-32,182b, and amendments thereto, if such credits would otherwise be earned for the hiring of new employees and the qualified company has retained any Kansas payroll withholding taxes from wages of such employees.

(g) The secretary shall adopt rules and regulations necessary to implement and administer the provisions of this act.

New Sec. 5. (a) Any qualified company eligible to receive benefits pursuant to section 3, and amendments thereto, shall complete and submit to the department of revenue the amount of Kansas payroll withholding tax being retained by the qualified company pursuant to this act in a manner prescribed by the director of taxation.

(b) The secretary of revenue shall adopt rules and regulations necessary to implement and administer the provisions of this act. The secretary of revenue and the secretary of commerce shall work together to coordinate a set of procedures to implement the provisions of this act.

New Sec. 6. The secretary shall conduct an annual review of the activities undertaken by a qualified company pursuant to this act to ensure that the qualified company is in compliance with the provisions of this act, any rules and regulations adopted by the secretary with respect to this act and the agreement described in section 4, and amendments thereto. The books and records concerning employment and wages of any employees for which the qualified company or third party has retained any Kansas payroll withholding taxes shall be



available for inspection by the secretary or the secretary's duly authorized agents or employees at all times during business hours. The secretary may request the department of revenue to audit the qualified company or third party for compliance with the provisions of this act.

New Sec. 7. The secretary shall transmit annually to the governor, the standing committees on taxation and assessment and commerce of the senate, the standing committees on taxation and economic development and tourism of the house of representatives and the joint committee on economic development, or any successor committee, a report, based on information received from each qualified company receiving benefits under this act, describing the following:

- (a) The names of the qualified companies;
- (b) the types of qualified companies utilizing the act;
- (c) the location of such companies and the location of such companies' business operations in Kansas;
- (d) the number of new employees hired;
- (e) the wages paid for such new employees;
- (f) the annual amount of benefits provided under this act;
- (g) the estimated net state fiscal impact, including the direct and indirect new state taxes derived from the new employees hired; and
- (h) an estimate of the multiplier effect on the Kansas economy of the benefits received under this act.

Sec. 8. K.S.A. 2008 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may: (1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce *the following*: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit program administered by the secretary of commerce; and (B) *findings related to a compliance audit conducted by the*

*department of revenue upon the request of the secretary of commerce pursuant to section 6, and amendments thereto;*

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the department of wildlife and parks to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department of social and rehabilitation services for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act (42 U.S.C. §651 et seq.) and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas pari-mutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported compensation is in compliance with the Kansas public employees retirement act at K.S.A. 74-4901 et seq., and amendments thereto; and

(13) provide taxpayer information of persons suspected of violating K.S.A. 2008 Supp. 44-766, and amendments thereto, to the staff attorneys of the department of labor for the purpose of determining compliance by any person with the provisions of K.S.A. 2008 Supp. 44-766, and amendments thereto, which information shall be limited to withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., as amended, and the results or status of such audit or investigation.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 9. K.S.A. 2008 Supp. 79-3234 is hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 12 by striking all after “ACT”; by striking all in line 13 and inserting “creating the promoting employment across Kansas act; amending K.S.A. 2008 Supp. 79-3234 and repealing the existing section.”;

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

RICHARD CARLSON

JEFF KING

JULIE MENGHINI

*Conferees on part of House*

LES DONOVAN

JULIA LYNN

G. TOM HOLLAND

*Conferees on part of Senate*

On motion of Rep. Carlson, the conference committee report on **SB 97** was adopted.

On roll call, the vote was: Yeas 124; Nays 1; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Kinzer.

Present but not voting: None.

Absent or not voting: None.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 161**, 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 2, by striking all in lines 36 through 38 and inserting the following:

“Sec. 2. K.S.A. 2008 Supp. 72-6426 is hereby amended to read as follows: 72-6426. (a) There is hereby established in every district a fund which shall be called the contingency reserve fund. Such fund shall consist of all moneys deposited therein or transferred thereto according to law. The fund shall be maintained for payment of expenses of a district attributable to financial contingencies as determined by the board. ~~Except as otherwise provided in subsection (b), at no time in any school year shall the amount maintained in the fund exceed an amount equal to 6% of the general fund budget of the district for the school year.~~

(b) ~~In any school year~~; *Except as otherwise provided in subsection (c), at no time in school year 2012-2013 or any school year thereafter shall the amount maintained in the contingency reserve fund exceed an amount equal to 10% of the general fund budget of the district for the school year.*

(c) (1) If the amount in the contingency reserve fund of a district is in excess of the amount authorized under subsection ~~(a) to be maintained in the fund~~ (b), and if such excess amount is the result of a reduction in the general fund budget of the district for the school year because of a decrease in enrollment, the district may maintain the excess amount in the fund until depletion of such excess amount by expenditure from the fund for the purposes thereof.

(2) *The limitation on the amount which may be maintained in the contingency reserve fund imposed under subsection (b) shall not apply to any district whose state financial aid is computed under the provisions of K.S.A. 72-6445a, and amendments thereto. Any such district may maintain the excess amount in the fund until depletion of such excess amount by expenditure from the fund for the purposes thereof.*

Sec. 3. K.S.A. 2008 Supp. 12-1928 and 72-6426 are hereby repealed.

Sec. 4. 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 10 and 11 and inserting “AN ACT concerning certain municipalities; relating to certain funds thereof; amending K.S.A. 2008 Supp. 12-1928 and 72-6426 and repealing the existing sections.”;

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

CLAY AURAND  
DEENA HORST  
VALDENIA C. WINN  
*Conferees on part of House*

JEAN SCHODORF  
JOHN VRATIL  
ANTHONY HENSLEY  
*Conferees on part of Senate*

On motion of Rep. Aurand, the conference committee report on **SB 161** was adopted.

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

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown, Neufeld, Schwartz, Ward.

Present but not voting: None.

Absent or not voting: None.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 212**, 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 3, by striking all in lines 7 through 12;

On page 4, in line 5, by striking "farm winery";

On page 6, by striking all in lines 27 through 33;

On page 7, in line 14, by striking "or" and inserting a comma; also in line 14, after "retailer's" by inserting "or special order shipping"; by striking all in line 43;

On page 8, by striking all in line 1 and inserting the following:

"Sec. 6. K.S.A. 41-2642 is hereby amended to read as follows: 41-2642. (a) A license for a drinking establishment shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises which may be open to the public, but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November 1986, or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646 and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646 and amendments thereto.

(b) A drinking establishment shall be required to derive from sales of food for consumption on the licensed premises not less than 30% of all the establishment's gross receipts from sales of food and beverages on such premises unless the licensed premises are located in a county where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 41-2646 and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646 and amendments thereto.

(c) A drinking establishment shall specify in the application for a license or renewal of a license the premises to be licensed, which may include all premises which are in close proximity and are under the control of the applicant or licensee.

(d) Notwithstanding any other provision of law to the contrary, any hotel of which the entire premises are licensed as a drinking establishment or as a drinking establishment/caterer may sell alcoholic liquor or cereal malt beverage by means of minibars located in guest rooms of such hotel, subject to the following:

(1) The key, magnetic card or other device required to attain access to a minibar in a guest room shall be provided only to guests who are registered to stay in such room and who are 21 or more years of age;

(2) containers or packages of spirits or wine sold by means of a minibar shall hold not less than 50 nor more than 200 milliliters; and

(3) a minibar shall be restocked with alcoholic liquor or cereal malt beverage only during hours when the hotel is permitted to sell alcoholic liquor and cereal malt beverage as a drinking establishment.

(e) *A drinking establishment may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.*

Sec. 7. K.S.A. 41-2637 is hereby amended to read as follows: 41-2637. (a) A license for a class A club shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members and their families, and guests accompanying them.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member

of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

*(c) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.*

Sec. 8. K.S.A. 41-2641 is hereby amended to read as follows: 41-2641. (a) A license for a class B club shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members of such club and guests accompanying them.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(c) Except as provided by subsection (d), an applicant for membership in a class B club shall, before becoming a member of such club:

- (1) Be screened by the club for good moral character;
- (2) pay an annual membership fee of not less than \$10; and
- (3) wait for a period of 10 days after completion of the application form and payment of the membership fee.

(d) Notwithstanding the membership fee and waiting period requirement of subsection (c):

(1) Any class B club located on the premises of a hotel or RV resort may establish rules whereby a guest, who registered at the hotel or RV resort and who is not a resident of the county in which the club is located, may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(2) Any class B club located on property which is owned or operated by a municipal airport authority and upon which consumption of alcoholic liquor is authorized by law may establish rules whereby an air traveler who is a holder of a current airline ticket may file application for temporary membership in such club for the day such air traveler's ticket is valid, and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(3) Any class B club may establish rules whereby military personnel of the armed forces of the United States on temporary duty and housed at or near any military installation located within the exterior boundaries of the state of Kansas may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of the training, not to exceed 20 weeks. Any person wishing to make application for temporary membership in a class B club under this subsection (d)(3) shall present the temporary duty orders to the club. Temporary membership issued under this subsection (d)(3) shall not be subject to the waiting period or fee requirements of this section.

(4) Any class B club may enter into a written agreement with a hotel or RV resort whereby a guest who is registered at the hotel or RV resort and who is not a resident of the county in which the club is located may file application for temporary membership in such club. The temporary membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and shall not be subject to the waiting period or dues requirement of this section. A club may enter into a written agreement with a hotel or RV resort pursuant to this provision only if (A) the hotel or RV

resort is located in the same county as the club, (B) there is no class B club located on the premises of the hotel or RV resort and (C) no other club has entered into a written agreement with the hotel or RV resort pursuant to this section.

(5) Any class B club located in a racetrack facility where races with parimutuel wagering are conducted under the Kansas parimutuel racing act may establish rules whereby persons attending such races may file an application for temporary membership in such club for the day such person is attending such races, and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

*(e) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.*

Sec. 9. K.S.A. 2008 Supp. 41-719 is hereby amended to read as follows: 41-719. (a) ~~No~~ (1) *Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.*

(2) *Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A. 41-2645, and amendments thereto, for such special event. Such special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event.*

(3) *No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.*

(4) *No person shall possess or consume alcoholic liquor inside the premises licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.*

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; or

(5) on the premises of a microbrewery or farm winery, if authorized by K.S.A. 41-308a or 41-308b, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under subsection (e) of K.S.A. 41-308a, and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.

(10) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(11) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g) or (h).

(d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.

(e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.

(f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

(j) For the purposes of this section, "special event" means a picnic, bazaar, festival or other similar community gathering, which has been approved by the local governing body of any city, county or township.

Sec. 10. K.S.A. 2008 Supp. 41-2645 is hereby amended to read as follows: 41-2645. (a) A temporary permit shall allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, subject to the terms of such permit.



(b) The director may issue a temporary permit to any one or more persons or organizations applying for such a permit, in accordance with rules and regulations of the secretary. The permit shall be issued in the names of the persons or organizations to which it is issued.

(c) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought unless the director waives such requirement for good cause. Each application shall state the purposes for which the proceeds of the event will be used. The application shall be upon a form prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a permit fee of \$25 for each day for which the permit is issued, which fee shall be paid by a certified or cashier's check of a bank within this state, United States post office money order or cash in the full amount thereof. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(d) Temporary permits shall specify the premises for which they are issued and shall be issued only for premises where the city, county or township zoning code allows use for which the permit is issued. No temporary permit shall be issued for premises which are not located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, to adopt the proposition amending section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or (B) have approved a proposition to allow the sale of liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(e) (1) *A temporary permit may be issued for the consumption of alcoholic liquor on a city, county or township street, alley, road, sidewalk or highway for a special event; provided, that such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township for such special event, a written request for such consumption and possession of such alcoholic liquor has been made to the local governing body and the special event is approved by the governing body of such city, county or township by ordinance or resolution. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.*

(2) *Drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.*

(3) *Each licensee selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.*

(4) *For the purposes of this section, "special event" shall have the same meaning given that term in K.S.A. 41-719, and amendments thereto.*

(f) A temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit, except that the director may issue one temporary permit, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of only wine or beer, or both, on the state fairgrounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose. Not more than four temporary permits may be issued to any one applicant in a calendar year.

(g) All proceeds from an event for which a temporary permit is issued shall be used only for the purposes stated in the application for such permit.

(h) A temporary permit shall not be transferable or assignable.

~~(h)~~ (i) The director may refuse to issue a temporary permit to any person or organization which has violated any provision of the Kansas liquor control act, the drinking establishment act or K.S.A. 79-41a01 et seq., and amendments thereto.

Sec. 11. K.S.A. 41-2651 is hereby amended to read as follows: 41-2651. (a) When application for licensure or renewal of licensure as a club or drinking establishment is received by the director, the director shall notify the governing body of the city or county where the premises to be licensed are located, if such governing body requests such notification.

(b) No such license or renewal shall be granted by the director until the expiration of at least 10 days from the time of filing the application for licensure or renewal with the director, during which period the governing body of any city or county notified pursuant to subsection (a) may request the director to hold a hearing on the granting or refusal to grant such license or renewal. ~~The~~

*(c) At any time, the governing body of any city or county may request the director to hold a hearing on whether any license issued pursuant to this act should be revoked or suspended. The governing body shall provide the director reasonable cause to believe a hearing is necessary based upon factors included in rules and regulations by the secretary. The director may refuse the governing body's request absent such reasonable cause.*

~~(d) Any hearing on the application held pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act as provided in K.S.A. 41-2609, and amendments thereto.~~

~~(e)~~ (e) At ~~such~~ any hearing held pursuant to this section the governing body of such city or county shall have the right to appear before the director and present testimony and evidence and make recommendations regarding the granting or refusal to grant such license or renewal, or whether such license should be revoked or suspended. In determining whether to grant or to refuse to grant such license or renewal, or to revoke or suspend such license, the director shall take into consideration the testimony and evidence and recommendations of the governing body of such city or county. The director may refuse to grant such license or renewal, or may revoke or suspend such license based on the evidence gathered at such hearing, in the interest of protecting the public welfare, and in accordance with rules and regulations adopted by the secretary.

~~(f)~~ (f) This section shall be part of and supplemental to the club and drinking establishment act.

New Sec. 12. If any provision of the Kansas liquor control act, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the legislature to further limit rather than to expand commerce in alcoholic liquor and to enhance strict regulatory control over taxation, distribution and sale of alcoholic liquor through the three-tier regulatory system imposed by the Kansas liquor control act upon all alcoholic liquor and cereal malt beverages.

Sec. 13. K.S.A. 41-305, 41-2637, 41-2641, 41-2642 and 41-2651 and K.S.A. 2008 Supp. 41-308a, 41-317, 41-348, 41-349, 41-719 and 41-2645 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 15 and inserting the following: “AN ACT concerning alcoholic beverages; amending K.S.A. 41-305, 41-2637, 41-2641, 41-2642 and 41-2651 and K.S.A. 2008 Supp. 41-308a, 41-317, 41-719 and 41-2645 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 41-348 and 41-349.”;

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

MELVIN J. NEUFELD  
S. MIKE KIEGERL  
JUDITH LOGANBILL  
*Conferees on part of House*

PETE BRUNGARDT  
ROGER P. REITZ  
OLETHA FAUST-GOUDEAU  
*Conferees on part of Senate*

On motion of Rep. Neufeld, the conference committee report on **SB 212** was adopted.

On roll call, the vote was: Yeas 88; Nays 37; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, T. Brown, Brunk, Burgess, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grange, Grant, Hawk, Henderson, Hill, Horst, Huntington, Jack, Johnson, Kerschen, King, Kleeb, Kuether, Landwehr, Lane, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, McLeland, Menghini, Merrick, Moxley, Navinsky, Neighbor, O'Brien, O'Neal, Olson, Palmer, Patton, Peterson, Phelps, Pottorff, Prescott, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schwab, Schwartz, Slattery, Sloan, Spalding, Svaty, Swenson, Talia, Tietze, Trimmer, Ward, Watkins, Wetta, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Brookens, A. Brown, Carlson, Craft, Crum, DeGraaf, Donohoe, George, Hayzlett, Henry, Hermanson, Hineman, C. Holmes, M. Holmes, Huebert, Kelley, Kiegerl, Kinzer, Knox, Light, Mast, Morrison, Myers, Neufeld, Otto, Pauls, Peck, Powell, Proehl, Schroeder, Seiwert, Shultz, Siegfried, Swanson, Tafanelli, Vickrey, Whitham.

Present but not voting: None.

Absent or not voting: None.

#### EXPLANATION OF VOTE

MR. SPEAKER: I vote no on **SB 212**. We have never used on-line age verification. We reduced the standard for **SB 212**. Is it acceptable for alcohol, cigarettes, or say firearms?

Physical identification is acceptable when delivering wine at the door. Will we lower the standard in other venues which have employees trained to ID customers.

This bill states licensees participating in special event sale of alcohol are liable for violations of laws governing the sale and consumption of alcoholic liquor. This dictates if three licensees participate and one violates the law all shall be liable. This language is too expansive.—ARLEN SIEGFREID, STEVE HUEBERT, J. ROBERT BROOKENS, MITCH HOLMES, S. MIKE KIEGERL

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2008**, submits the following report:

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

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

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

On page 3, by striking all in lines 1 through 27; following line 27 by inserting:

“Section 1. (a) The practice of the healing arts shall not be construed to include any person administering epinephrine in emergency situations to a student or a member of a school staff if: (1) The person administering the epinephrine reasonably believes that the student or staff member is exhibiting the signs and symptoms of an anaphylactic reaction; (2) a physician has authorized, in writing, the school to maintain a stock supply of epinephrine; and (3) the epinephrine is administered at school, on school property or at a school-sponsored event.

(b) Any person who gratuitously and in good faith renders emergency care or treatment through the administration of epinephrine to a student or a member of a school staff at school, on school property or at a school-sponsored event shall not be held liable for any civil damages as a result of such care or administration or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.

Sec. 2. Any accredited school may maintain an epinephrine kit. An epinephrine kit may consist of one or more doses of epinephrine. Epinephrine from an epinephrine kit shall be used only in emergency situations when the person administering the epinephrine reasonably believes that the signs and symptoms of an anaphylactic reaction are occurring and if administered at school, on school property or at a school-sponsored event. A school may

not maintain an epinephrine kit unless the school has consulted with a pharmacist licensed by the state board of pharmacy. The consultant pharmacist shall have supervisory responsibility for maintaining the epinephrine kit. The consultant pharmacist shall be responsible for developing procedures, proper control and accountability for the epinephrine kit. Periodic physical inventory of the epinephrine kit shall be required. An epinephrine kit shall be maintained under the control of the consultant pharmacist.

Sec. 3. The state board of pharmacy may adopt any rules and regulations which the board deems necessary in relation to the maintenance of epinephrine kits under section 2, and amendments thereto.”;

By renumbering the remaining section;

In the title, in line 13, by striking all after “kits”; in line 14, by striking all before the period;

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

JEAN SCHODORF  
JOHN VRATIL  
ANTHONY HENSLEY  
*Conferees on part of Senate*

DEENA HORST  
DON HILL  
ED TRIMMER  
*Conferees on part of House*

On motion of Rep. Horst, the conference committee report on **Sub. HB 2008** was adopted.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2126**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2126, as follows:

On page 2, by striking all in lines 3 through 43;

By striking all on pages 3 through 7;

On page 8, by striking all in lines 1 through 39;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 10, by striking all after “situations”; by striking all in lines 11 through 14; in line 15, by striking all before the period;

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

PAT APPLE  
MIKE PETERSEN  
JANIS K. LEE  
*Conferees on part of Senate*

CARL DEAN HOLMES  
FORREST J. KNOX  
ANNIE KUETHER  
*Conferees on part of House*

On motion of Rep. C. Holmes, the conference committee report on **S. Sub. for HB 2126** was adopted.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleebl, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2250**, submits the following report:

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

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

By striking all on page 2;

On page 3, by striking all in lines 1 through 7 and inserting the following:

“Section 1. K.S.A. 17-1766 is hereby amended to read as follows: 17-1766. ~~All solicitations by professional solicitors shall contain the following disclosures at the point of solicitation:~~

~~—(a) The name, address and telephone number of the charitable organization;~~

~~—(b) the registration number, obtained pursuant to K.S.A. 17-1763 for the charitable organization;~~

~~—(c) if the solicitation is made by a person acting as a professional solicitor, the registration number obtained pursuant to K.S.A. 17-1765, and~~

~~—(d) that an annual financial report required by K.S.A. 17-1763 for the preceding fiscal year is on file with the secretary of state: (a) Prior to verbally requesting a contribution, or contemporaneously with and accompanying a written request for a contribution, every professional solicitor shall affirmatively disclose the following at the point of solicitation:~~

~~(1) The fact that the solicitation is being made by a professional solicitor and not by an employee of the charitable organization on behalf of which the solicitation is being made;~~

~~(2) the name of the professional solicitor, the name of the professional fund raiser and the name of the charitable organization on behalf of which the solicitation is being made, all as registered with the secretary of state; and~~

(3) *the fact that information about the professional solicitor, the professional fund raiser and the charitable organization are on file for public inspection with the secretary of state.*

(b) *In addition to the other requirements of this section, if the solicitation is written, the professional solicitor shall affirmatively disclose the following at the point and time of solicitation:*

(1) *The registration numbers obtained pursuant to K.S.A. 17-1763, 17-1764 and 17-1765, and amendments thereto;*

(2) *the address and telephone number of the charitable organization on behalf of which the solicitation is being made; and*

(3) *the fact that the charitable organization's most recent annual financial report required by K.S.A. 17-1763, and amendments thereto, is on file for public inspection with the secretary of state.*

(c) *In addition to the other requirements of this section, if the solicitation is verbal, the professional solicitor shall, if requested by the prospective contributor, disclose the following:*

(1) *The registration numbers obtained pursuant to K.S.A. 17-1763, 17-1764 and 17-1765, and amendments thereto;*

(2) *the address and telephone number of the charitable organization on behalf of which the solicitation is being made; and*

(3) *the fact that the charitable organization's most recent annual financial report required by K.S.A. 17-1763, and amendments thereto, is on file for public inspection with the secretary of state.*

(d) *In addition to the other requirements of this section, if requested by the prospective contributor, the professional solicitor shall disclose the amount of any contribution to be retained by the professional fund raiser. Such amount shall be calculated as follows:*

(1) *If the compensation paid to the professional fund raiser is contingent upon the number of contributions or the amount of revenue received from the solicitation campaign, the stated amount shall be expressed as a fixed percentage of gross revenue.*

(2) *If the compensation paid to the professional fund raiser is not contingent upon the number of contributions or the amount of revenue received, the stated amount shall be a reasonable estimate, expressed as a percentage of the gross revenue. The stated estimate, expressed as a percentage of gross revenue, shall be based upon all of the relevant facts known to the professional fund raiser regarding the solicitation to be conducted as well as the past performance of solicitations conducted by the professional fund raiser. The prospective donor shall be informed that the stated amount is an estimate.*

Sec. 2. K.S.A. 17-1766 is hereby repealed.”;

Also on page 3, in line 9, by striking “Kansas register” and inserting “statute book”;

In the title, by striking all in lines 12 through 14 and inserting: “AN ACT amending the charitable organizations and solicitations act; concerning professional fund raisers; amending K.S.A. 17-1766 and repealing the existing section.”;

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

THOMAS C. OWENS

DEREK SCHMIDT

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER

JEFF WHITHAM

JANICE L. PAULS

*Conferees on part of House*

On motion of Rep. Kinzer to adopt the conference committee report on **HB 2250**, the motion did not prevail.

On roll call, the vote was: Yeas 42; Nays 83; Present but not voting: 0; Absent or not voting: 0.

Yeas: Bowers, Burgess, Burroughs, Crow, DeGraaf, Faber, Feuerborn, Flaharty, Frownfelter, Fund, D. Gatewood, George, Grant, Henry, C. Holmes, M. Holmes, Huebert, Kerschen, King, Kinzer, Lukert, Maloney, Mast, Merrick, Myers, O'Neal, Olson, Otto, Pat-

ton, Pauls, Peck, Peterson, Prescott, Rhoades, Siegfried, Sloan, Tietze, Trimmer, Ward, Wetta, Whitham, Worley.

Nays: Aurand, Ballard, Benlon, Bethell, Brookens, A. Brown, T. Brown, Brunk, Carlin, Carlson, Colloton, Craft, Crum, Davis, Dillmore, Donohoe, Finney, Furtado, Garcia, S. Gatewood, Goico, Gordon, Goyle, Grange, Hawk, Hayzlett, Henderson, Hermanson, Hill, Hineman, Horst, Huntington, Jack, Johnson, Kelley, Kiegerl, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Mah, McCray-Miller, McLeland, Menghini, Morrison, Moxley, Navinsky, Neighbor, Neufeld, O'Brien, Palmer, Phelps, Pottorff, Powell, Proehl, Quigley, Rardin, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Slattery, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Vickrey, Watkins, Williams, Winn, B. Wolf, K. Wolf, Yoder.

Present but not voting: None.

Absent or not voting: None.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2292**, 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 8, by striking all in lines 10 through 43;

By striking all on pages 9 through 27;

On page 28, by striking all in lines 1 through 37;

And by renumbering sections accordingly;

Also on page 28, in line 38, by striking all following "K.S.A."; by striking all in lines 39 and 40; in line 41, by striking all preceding "2008";

In the title, in line 15, by striking "concerning certain consumer loan services."; in line 16, by striking all following "ing"; by striking all in lines 17 and 18; in line 19, by striking all preceding "K.S.A.";

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

RUTH TEICHMAN

KARIN BROWNLEE

CHRIS STEINEGER

*Conferees on part of Senate*

ANTHONY BROWN

RICHARD J. PROEHL

BOB GRANT

*Conferees on part of House*

On motion of Rep. A. Brown, the conference committee report on **HB 2292** was adopted.

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aurand, Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2096**, submits the following report:

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

On page 1, after line 25, by inserting the following:

“(3) review proposals related to driving under the influence introduced in the 2009 legislative session;

(4) review other subjects related to driving under the influence referred to the commission by the chairperson of the standing senate committee on judiciary, house committee on judiciary or house committee on corrections and juvenile justice;”;

And by renumbering the remaining paragraphs accordingly;

Also on page 1, in line 43, by striking all after “(3)”;

On page 2, in line 1 by striking all before the semicolon and inserting “the ranking minority member of the standing committee on judiciary of the house of representatives;

(4) the ranking minority member of the standing committee on judiciary of the senate”;

And by renumbering the remaining paragraphs accordingly;

Also on page 2, in line 2, by striking “, a district magistrate judge”;

On page 26, in line 16, before the period, by inserting “or first appearance, whichever occurs first”;

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

THOMAS C. OWENS

DEREK SCHMIDT

DAVID HALEY

*Conferees on part of Senate*

PAT COLLOTON

JOE PATTON

MELODY MCCRAY-MILLER

*Conferees on part of House*

On motion of Rep. Colloton, the conference committee report on **S. Sub. for HB 2096** was adopted.

On roll call, the vote was: Yeas 106; Nays 19; Present but not voting: 0; Absent or not voting: 0.

Yeas: Ballard, Benlon, Bethell, Bowers, T. Brown, Brunk, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Goyle, Grant, Hawk, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, Menghini, Morrison, Moxley, Myers, Navinsky, Neighbor, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peterson, Phelps, Prescott, Proehl, Quigley, Rardin, Rhoades, Roth, Ruiz, Sawyer, Schwab, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Aurand, Brookens, A. Brown, Carlson, Faber, Gordon, Grange, Hayzlett, Huebert, Light, McLeland, Merrick, Neufeld, Peck, Pottorff, Powell, Schroeder, Schwartz, Tapanelli.

Present but not voting: None.

Absent or not voting: None.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Myers, the House nonconcurred in Senate amendments to **S. Sub. for HB 2085** and asked for a conference.



Speaker O'Neal thereupon appointed Reps. Powell, Fund and Svaty as conferees on the part of the House.

On motion of Rep. Myers, the House nonconcurrent in Senate amendments to **S. Sub. for HB 2267** and asked for a conference.

Speaker O'Neal thereupon appointed Reps. Kinzer, Whitham and Pauls as conferees on the part of the House.

#### INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6026—

By Representatives Merrick and O'Neal

A RESOLUTION commemorating the twentieth anniversary of the sister-state relationship between the State of Kansas and the Province of Taiwan, Republic of China.

WHEREAS, On November 14, 1989, the State of Kansas invited the Province of Taiwan, Republic of China to join the State of Kansas as a sister state to strengthen international understanding and goodwill and to establish a greater friendship between the residents of Kansas and Taiwan; and

WHEREAS, The Province of Taiwan has been a true friend and steadfast partner of the State of Kansas in an enduring sister-state relationship for 20 years; and

WHEREAS, Over the past 20 years, the bonds of friendship between Kansas and Taiwan have strengthened, resulting in a better economic, social and cultural exchange between the two; and

WHEREAS, Every other year, Taiwan has sent an Agriculture Trade Goodwill Mission to Kansas to demonstrate Taiwan's continuing goodwill and willingness to purchase Kansas agricultural products and the Kansas agricultural industry has benefitted greatly over the past two decades from the sale of wheat, corn and beef into Taiwan; and

WHEREAS, Beginning in 1989, every year over 400 students from Taiwan have studied at Kansas colleges and universities; and

WHEREAS, The commercial interaction between the State of Kansas and Taiwan has grown substantially with each passing year, resulting in increased economic growth for both Taiwan and Kansas; and

WHEREAS, Taiwan is the ninth largest trade partner of the United States, with over \$64.7 billion in two-way trade in 2007, and is a top foreign market for Kansas products: Now, therefore,

*Be it resolved by the House of Representatives:* That we, on behalf of the people of the State of Kansas, do hereby express our sincere friendship and appreciation to the people of the Province of Taiwan, Republic of China for 20 years of enlightenment, friendship and mutual economic growth as our sister-state; and

*Be it further resolved:* That it is with great pride that the State of Kansas looks forward to many more rewarding years as a sister-state with the Province of Taiwan, Republic of China; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to send an enrolled copy of this resolution to the United States Secretary of State Hillary Clinton, U.S. Department of State, 2201 C Street NW, Washington, DC 20520; to Director General Dale W. Jieh, Taipei Economic and Cultural Office, 3100 Broadway, Suite 800, Kansas City, MO 64111; and to each member of the Kansas Congressional Delegation and to provide two enrolled copies of this resolution to Representative Ray Merrick.

#### INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. McCray-Miller, **HR 6027**, by Rep. McCray-Miller, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6027—

By Representative McCray-Miller

A RESOLUTION congratulating and commending  
the Wichita Heights High School boys basketball team.

WHEREAS, The Wichita Heights High School Falcons won the 2009 Class 6A State Championship with a 73-58 victory over Southeast High School; and

WHEREAS, This championship was the first in any boys sport at Wichita Heights High School since 1977; and

WHEREAS, The Falcons finished the season with a 24-1 record, including a 16-0 mark in the city league, the first team to do so since 1994 and finished the season ranked in the top ten in the country by CBS Max Preps; and

WHEREAS, The team members are Seniors Dorrian Roberts, Austin Bahner, Thomas Bland and Steven VanLooy; Juniors Darrell Dempsey and Keith Riley; Sophomores Dreamius Smith, Evan Wessel, E.J. Dobbins and Jay Bradley; Freshmen Perry Ellis and Terrence Moore; and team managers Kyle Coffinan, Aaron Roberts and Austin Sheppard; and

WHEREAS, The team was expertly coached by Head Coach Joe Auer and assistant coaches Ric Vix, Bryan Chadwick and Tyler Richardson; and

WHEREAS, The Falcons also earned a number of individual awards during their fantastic season. Freshman Perry Ellis was named Gatorade Player of the Year in Kansas, Coach Joe Auer was named the State Coach of the Year by the Wichita Eagle and Seniors Thomas Bland, Austin Bahner and Dorrian Roberts earned All-League and All-State honors; and

WHEREAS, The dedication and teamwork required to win a state championship makes the Falcons accomplishments truly remarkable: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we congratulate and commend the Wichita Heights High School boys basketball team for winning the 2009 Class 6A State Championship and that we wish them future success; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to provide 18 enrolled copies of this resolution to Representative Melody McCray-Miller.

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

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Speaker O'Neal called the House to order.

On motion of Rep. Merrick, the House recessed until 5:30 p.m.

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## EVENING SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

### MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **SB 35**.

The Senate adopts conference committee report on **S. Sub. for HB 2260**.

The Senate adopts the conference committee report to agree to disagree on **HB 2052** and has appointed Senators Teichman, Brownlee and Steineger as second conferees on the part of the Senate.

The Senate adopts the conference committee report to agree to disagree on **HB 2214** and has appointed Senators Teichman, Brownlee and Steineger as second conferees on the part of the Senate.

### REPORTS OF STANDING COMMITTEES

**Select Committee on KPERS** recommends **HB 2073** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2073," as follows:

“Substitute for HOUSE BILL No. 2073  
By Select Committee on KPERS

“AN ACT concerning retirement and pensions; relating to employment after retirement; retirants employed by third-party entities; amending K.S.A. 2008 Supp. 74-4914 and repealing the existing section.”; and the substitute bill be passed.  
(**Sub. HB 2073** was thereupon introduced and read by title.)

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2052**, 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.

RUTH TEICHMAN  
KARIN BROWNLEE  
CHRIS STEINEGER  
*Conferees on part of Senate*

CLARK SHULTZ  
VIRGIL PECK, JR.  
*Conferees on part of House*

On motion of Rep. Shultz to adopt the conference committee report on **HB 2052**, the motion did not prevail, and the bill remains in conference.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2214**, 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.

RUTH TEICHMAN  
KARIN BROWNLEE  
CHRIS STEINEGER  
*Conferees on part of Senate*

CLARK SHULTZ  
VIRGIL PECK, JR.  
*Conferees on part of House*

On motion of Rep. Shultz, the conference committee report on **HB 2214** was adopted. Speaker O'Neal thereupon appointed Reps. Shultz, Peck and Swenson as second conferees on the part of the House.

#### REPORT ON ENGROSSED BILLS

**HB 2131, HB 2134, HB 2308; Sub. HB 2354** reported correctly engrossed April 2, 2009.

#### REPORT ON ENROLLED RESOLUTIONS

**HCR 5018** reported correctly enrolled and properly signed on April 2, 2009.  
Also, **HR 6018, HR 6020** reported correctly enrolled and properly signed on April 2, 2009.

On motion of Rep. Merrick, the House adjourned until 9:00 a.m., Friday, April 3, 2009.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

