

# Journal of the House

SIXTY-FOURTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Friday, May 8, 2009, 10:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.  
The roll was called with 121 members present.  
Reps. Grange, Hawk, Rardin and Schwab were excused on excused absence by the Speaker.

Prayer by guest chaplain, the Rev. Steve L. Vaughn, Senior Pastor, Fairlawn Nazarene Church, Topeka:

God of our Fathers, Shepherd of Thy people, Lord of free men's souls, bless our state with a valiant, Godly spirit, with a vision to see, with the courage to try, with the power to achieve.

United people, grant guidance to our leaders, protection to our children, and teach each of us Thy way of life in good will and peace.

You are the rock on which this nation was founded. You alone are the true source of our cherished rights to life, liberty and the pursuit of happiness.

Reclaim this country for your glory and dwell among your people. Send Your Spirit to touch the hearts of our state's leaders. Open their minds to the great worth of human life and the responsibilities that accompany human freedom. Remind your people that true happiness is rooted in seeking and doing Your Holy Will.

Grant a special prayer to this House of Representatives as they deal with the problems of today and tomorrow. Bless their districts and the people they represent. Guide our speaker as he leads this day of business and may your presence engulf this place with blessing and honor.

Please be with Rep. Grange and the people of his district as they recover from the wind damage in their area.

In Christ's name I ask. Amen.

The Pledge of Allegiance was led by Rep. Crow.

## MESSAGE FROM THE SENATE

Announcing passage of **HB 2366**.

Announcing passage of **HB 2283**, as amended; **HB 2365**, as amended by **S. Sub. for Sub. HB 2365**; **HB 2369**, as amended by **S. Sub. for HB 2369**; **HB 2374**, as amended.

The Senate adopts conference committee report on **SB 171**.

The Senate adopts conference committee report on **HB 2060**.

The Senate adopts conference committee report on **HB 2158**.

The Senate adopts conference committee report on **HB 2162**.

The Senate accedes to the request of the House for a conference on **S. Sub. for HB 2072** and has appointed Senators Vratil, McGinn and Kelly as second conferees on the part of the Senate.

## MESSAGE FROM THE SENATE

Announcing the Senate herewith transmits the veto message from the Governor on **H Substitute for SB 218**, An act concerning abortion; regarding restrictions on late term and partial birth abortion; amending K.S.A. 65-445, 65-6701, 65-6703, 65-6709, as amended by section 1 of 2009 HOUSE Substitute for Senate Bill No. 238 and 65-6721 and K.S.A. 2008 Supp. 65-2836 and repealing the existing sections; also repealing K.S.A. 65-6713, which was received on April 23, 2009, and was read before the Senate on April 29, 2009.

### *Message from the Governor*

For more than a decade, Kansas laws have banned partial birth abortions and post-viability abortions except in those very limited cases where it is necessary to preserve the life or health of a pregnant woman. The United States Supreme Court has consistently held that while states can limit the availability of post-viability abortions, they must allow them where necessary to protect the health or life of the woman.

As Governor of Kansas, I have worked hard to reduce abortions by supporting a range of initiatives including adoption incentives, encouraging parental involvement and individual responsibility for young men and women, expanding health services for Kansas children, promoting access to affordable contraceptives, expanded maternal and infant health services and promotional efforts, providing funds for proven successful pregnancy maintenance programs and encouraging age-appropriate sex education.

These efforts have resulted in reducing the number of abortions by more than 10% in the last six years in Kansas. I am confident that with a more united effort to reduce the number of unplanned pregnancies, combined with creating conditions that provide support and assistance for mothers and their babies, we will have even greater success reducing abortions in our state.

Unfortunately, House Sub for SB 218 will not help to reduce the number of abortions in Kansas, and would likely be declared unconstitutional. Under the bill, a physician intending to comply with the law could later be criminally prosecuted. A physician acting in good faith to save a pregnant woman's life, and using his or her best medical judgment, should not be subject to later criminal prosecution. Similar language was declared unconstitutional by the United States Court of Appeals for the Sixth Circuit in *Womens Medical Professional Corp. v. Voinovich*, 130 F.3d 187 (6th Cir. 1997).

The provisions in this bill that would allow for the criminal prosecution of a physician intending to comply with the law will lead to the intimidation of health care providers and reduce access to comprehensive health care for women, even when it is necessary to preserve their lives and health. While I agree that we should try to reduce the number of abortions, it cannot be at the increased risk to the life or health of women. Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto **H. Sub. for SB 218**.

KATHLEEN SEBELIUS  
*Governor*

Dated: April 23, 2009

A motion was made that **H. Sub. for SB 218** be passed notwithstanding the Governor's veto. By a vote of 25 Yeas and 13 Nays, the motion did not receive the required two-thirds majority of the elected members of the Senate, voting in the affirmative, the motion failed and the veto was sustained.

## INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolutions were introduced and read by title:

HOUSE RESOLUTION No. 6033—

By Representatives Huntington, T. Brown, Horst, Mah, McLeland, Moxley, Palmer, Prescott, Rhoades and Winn

A RESOLUTION honoring University of Kansas Chancellor Robert E. Hemenway.

WHEREAS, Chancellor Robert E. Hemenway, who since 1995 has led the University of Kansas through an unprecedented period of progress and expansion, will step down as Chancellor on June 30, 2009; and

WHEREAS, Under Chancellor Hemenway's leadership, KU has experienced record enrollment; the transition of KU Hospital to a top performing academic hospital after Hemenway's proposal in 1998 to move the hospital from state status to a public authority; an increase in its research activity to almost \$300 million annually and undergone an unprecedented expansion and remodeling of its campus facilities; and

WHEREAS, Chancellor Hemenway has also initiated a "wounded warrior" education partnership with the U.S. Army in Fort Leavenworth, building on a faculty-student exchange he created with the fort; and

WHEREAS, In 2007, Chancellor Hemenway was elected to the 11-member executive committee for the Association of American Universities, an organization representing the nation's most prestigious research universities, and in 2008, he was elected its vice-chair; and

WHEREAS, As the No. 1 Jayhawk fan, Chancellor Hemenway was especially pleased to see the University of Kansas Jayhawks win the NCAA men's basketball championship and a BCS Bowl game, the Orange Bowl, in 2008, joining the University of Florida as the only schools to have achieved that feat; and

WHEREAS, As a scholar of American literature, Chancellor Hemenway has taught an undergraduate class every year, recently alternating between American literature and honors seminars on global poverty and development issues, topics reflective of Hemenway's wide-ranging intellectual interests; and

WHEREAS, The innumerable and invaluable contributions made by Dr. Hemenway have not only guided the University of Kansas through an extremely successful period in its history, but have left the future of the university in wonderful condition to continue the tradition of success: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we honor and thank Dr. Robert Hemenway for his contributions to the University of Kansas and its students, faculty, administration, alumni, parents, supporters and to the entire state of Kansas; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to provide two enrolled copies of this resolution to the Chair of the House Education Committee, Representative Terrie Huntington.

HOUSE RESOLUTION No. 6034—

By Representatives Carlin and Hawk

A RESOLUTION congratulating and commending President Wefald on his tremendous accomplishments as President of Kansas State University.

WHEREAS, Jon Wefald came to Kansas State University in 1986 after serving as chancellor of the Minnesota State University System for four years and president of Southwest State in Marshall, Minn., from 1977-82; and

WHEREAS, Jon Wefald has served admirably as the 12th president of K-State, leading the University through a time of unprecedented progress and success; and

WHEREAS, President Wefald is credited with transforming an institution with declining enrollments, low faculty morale, limited research and graduate programs, and a losing football program into a nationally ranked top 10 land grant university. Because of his leadership, K-State leads among peer institutions with significant research and graduate programs and a highly competitive athletic program in the prestigious Big 12 Conference; and

WHEREAS, under Wefald's leadership, K-State has, among many other accomplishments, achieved the following since 1986: Increased enrollments from 16,000 in 1986 to more than 23,000 students in 2008, increased private giving from about \$6 million in 1986 to close to \$100 million in 2008, increased competitive research from about \$15 million in 1986 to more than \$110 million in 2008 and overall research funding to more than \$220 million in 2008; and

WHEREAS, Under President Wefald's leadership K-State has constructed more than 2.2 million square feet of new buildings from 1986 to 2008, including a beautiful new library, art museum and alumni building; a remarkable feat in an era of dramatically declining state and federal funding; and

WHEREAS, President Wefald has played an important role in the creation of one of the most beautiful and clean college campuses anywhere in America; and

WHEREAS, K-State ranks first among all 500 public universities from 1986 to 2009 with 125 Rhodes, Marshall, Truman, Goldwater and Udall Scholarships; and

WHEREAS, K-State ranks second among all of the nation's land-grant universities between 1986 and 2009 with K-State professors winning three Carnegie/CASE U.S. Professor of the Year Awards, seven Kansas Professor of the Year Awards and two national silver medalists; and

WHEREAS, President Wefald played an important role in helping K-State develop one of the best leadership academic programs in America—with about 1,300 students minoring in leadership studies; and

WHEREAS, During President Wefald's tenure K-State has developed a number of nationally-ranked athletic teams in the Big Eight and Big 12; and

WHEREAS President Wefald played a key role in the organization of the new Big 12 Conference in 1995-1996 and in K-State becoming a member of the Big 12; and

WHEREAS, President Wefald plans to retire this summer after the 2009 academic year to become a part-time professor of leadership studies and history. He will be succeeded by future President Kirk H. Schulz. Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we do hereby commend and congratulate President Wefald for his highly distinguished career as President of K-State University, and thank him for the tremendous progress he has brought to Kansas State University and the state of Kansas overall. We wish him the best in all his future pursuits.

*Be it further resolved:* That five copies of this resolution be provided to Representative Sydney Carlin.

#### HOUSE RESOLUTION No. 6035—

By Representatives Huntington, T. Brown, Horst, Mah, McLeland, Moxley, Palmer,  
Prescott, Rhoades and Winn

A RESOLUTION honoring Pittsburg State University President Tom Bryant.

WHEREAS, Tom Bryant joined Pittsburg State University in 1970 as an Associate Professor of Health, Physical Education and Recreation (HPER) before being named Chairman of the Department in 1985. In 1992, Dr. Bryant was named Acting Dean of the School of Education while continuing to serve as chairman of HPER before being appointed Dean of the School of Education in 1993; and

WHEREAS, He served as interim executive director of the Kansas Board of Regents, where he was involved in the state legislature's efforts to reorganize the state's higher education governance structure in addition to being involved in promoting an initiative to enhance faculty salaries; and

WHEREAS, In 1995, Dr. Bryant assumed the interim Presidency of Pittsburg State at a crossroads in the institution's history and during which time, he secured the funding necessary to complete the Kansas Technology Center; and

WHEREAS, After serving the university and the state in these two separate but demanding interim roles, Dr. Tom Bryant was selected by the Kansas Board of Regents as the eighth president of Pittsburg State University, assuming office on July 1, 1999; and

WHEREAS, Dr. Bryant presided over record-setting enrollment growth with particular emphasis towards on-campus, full-time students; and

WHEREAS, He led the university in providing better access to educational opportunity by doubling scholarships for students and to academic excellence as demonstrated by national and international accreditations for programs in each of the university's colleges; and

WHEREAS, Dr. Bryant directed a campus wide effort at internationalization that was recognized in 2008 with the Senator Paul Simon Award for campus internationalization; and

WHEREAS, He guided the university through a robust strategic planning process that led to an unprecedented time of campus growth and expansion marked by the construction of many new buildings, the modernization of existing and historic buildings and creative

partnerships between the university and other enterprises to build and maximize the use of other facilities; and

WHEREAS, Dr. Bryant directed a significant enhancement of the physical campus environment through the installation of multiple outdoor sculptures and art work and the creation of outdoor gathering places; and

WHEREAS, He initiated a robust campus wide effort to assess and improve safety that includes improved lighting, multiple emergency communication structures, planning and training; and

WHEREAS, Dr. Bryant led an effort at community and alumni engagement that inspired the National Collegiate Athletic Association to profile Pittsburg State University as an example for other Division II universities to emulate; and

WHEREAS, Dr. Bryant would always work with anyone and any group that wanted to strengthen Pittsburg State University; and

WHEREAS, Dr. Bryant's retirement comes after 39 years of devoted service to the Pittsburg State University family, a contribution that has been invaluable to its success: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we honor and thank Dr. Tom Bryant for his contributions to Pittsburg State University and its students, faculty, administration, alumni, parents, supporters and to the entire state of Kansas; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to provide two enrolled copies of this resolution to the Chair of the House Education Committee, Representative Terrie Huntington.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for HB 2369**.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. C. Holmes, the House concurred in Senate amendments to **S. Sub. for HB 2369**, An act concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the existing sections; also repealing K.S.A. 19-101a, as amended by section 7 of 2009 Senate Bill No. 336, and 19-101m.

Call of the House was demanded.

On roll call, the vote was: Yeas 103; Nays 18; Present but not voting: 0; Absent or not voting: 4.

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

Nays: Ballard, Carlin, Davis, Finney, Flaharty, Furtado, Henderson, Kuether, Loganbill, Long, McCray-Miller, Menghini, Pottorff, Ruiz, Slattery, Svaty, Tietze, Winn.

Present but not voting: None.

Absent or not voting: Grange, Hawk, Rardin, Schwab.

#### EXPLANATION OF VOTE

MR. SPEAKER: While I can support the politics of this decision, I cannot support some of the policies within this legislation.

1. Altering the authority of the Secretary of KDHE (Kansas Health and Environment).
2. Allowing the deregulation of large cooperatives.

I truly believe that these two policy issues take us down a very wrong path, and are wrong for the people of Kansas. I vote no on **S. Sub. for HB 2369**.—ANNIE KUETHER, JUDITH LOGANBILL, DOLORES FURTADO, MELODY MCCRAY-MILLER, BRODERICK HENDERSON, GAIL FINNEY, MARGARET LONG, VALDENIA WINN, JULIE MENGHINI

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for Sub. HB 2365**.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. King to concur in Senate amendments to **S. Sub. for Sub. HB 2365**, Rep. Carlson offered a substitute motion that the House nonconcur and that a conference committee be appointed. The substitute motion prevailed.

Speaker O'Neal thereupon appointed Reps. Carlson, King and Menghini as conferees on the part of the House.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Henry, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, to suspend the rules for the purpose of considering **HB 2130**, roll call was demanded.

On roll call, the vote was: Yeas 63; Nays 58; Present but not voting: 0; Absent or not voting: 4.

Yeas: Ballard, Benlon, Bethell, Brookens, T. Brown, Burroughs, Carlin, Colloton, Craft, Crow, Davis, Dillmore, Feuerborn, Flaharty, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Henry, Hill, Hineman, M. Holmes, Huntington, Johnson, King, Kleeb, Kuether, Loganbill, Long, Lukert, Mah, Maloney, Menghini, Navinsky, Neighbor, O'Neal, Palmer, Pauls, Peterson, Phelps, Pottorff, Prescott, Quigley, Roth, Ruiz, Sawyer, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Whitham, Williams, K. Wolf, Worley.

Nays: Aurand, Bowers, A. Brown, Brunk, Burgess, Carlson, Crum, DeGraaf, Donohoe, Faber, Finney, Frownfelner, Fund, George, Goico, Gordon, Hayzlett, Henderson, Hermanson, C. Holmes, Horst, Huebert, Jack, Kelley, Kerschen, Kiegerl, Kinzer, Knox, Landwehr, Lane, Light, Mast, McCray-Miller, McLeland, Merrick, Morrison, Moxley, Myers, Neufeld, O'Brien, Olson, Otto, Patton, Peck, Powell, Proehl, Rhoades, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Tafanelli, Vickrey, Watkins, Winn, B. Wolf, Yoder.

Present but not voting: None.

Absent or not voting: Grange, Hawk, Rardin, Schwab.

The motion to suspend the rules prevailed.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Henry to concur in Senate amendments to **HB 2130**, Rep. Kinzer rose on a point of order requesting a ruling on whether this motion can be made more than once on the same bill (see HJ, p. 638). The Rules Chair ruled the motion in order. Rep. Kinzer challenged the ruling, the question being "Shall the Rules Chair be sustained?"

The Rules Chair was sustained.

The question reverted back to the motion of Rep. Henry to concur in Senate amendments to **HB 2130**, An Act relating to motor vehicles; concerning the use of safety belts; amending K.S.A. 2008 Supp. 8-2503 and 8-2504 and repealing the existing sections.

On roll call, the vote was: Yeas 58; Nays 63; Present but not voting: 0; Absent or not voting: 4.

Yeas: Ballard, Benlon, Bethell, T. Brown, Carlin, Colloton, Craft, Crow, Davis, Dillmore, Feuerborn, Flaharty, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Henry, Hill, Hineman, Huntington, Johnson, Kerschen, Kleeb, Kuether, Loganbill, Long, Lukert, Maloney, Menghini, Navinsky, Neighbor, O'Neal, Palmer, Pauls, Peterson, Phelps, Pottorff,

Prescott, Quigley, Roth, Ruiz, Sawyer, Slattery, Sloan, Spalding, Svaty, Swanson, Talia, Tietze, Trimmer, Ward, Wetta, Williams, K. Wolf, Worley, Yoder.

Nays: Aurand, Bowers, Brookens, A. Brown, Brunk, Burgess, Burroughs, Carlson, Crum, DeGraaf, Donohoe, Faber, Finney, Frownfelter, Fund, George, Goico, Gordon, Hayzlett, Henderson, Hermanson, C. Holmes, M. Holmes, Horst, Huebert, Jack, Kelley, Kiegerl, King, Kinzer, Knox, Landwehr, Lane, Light, Mah, Mast, McCray-Miller, McLeland, Merrick, Morrison, Moxley, Myers, Neufeld, O'Brien, Olson, Otto, Patton, Peck, Powell, Proehl, Rhoades, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Swenson, Tafanelli, Vickrey, Watkins, Whitham, Winn, B. Wolf.

Present but not voting: None.

Absent or not voting: Grange, Hawk, Rardin, Schwab.

The motion did not prevail, and **HB 2130** remains in conference.

On motion of Rep. Merrick, the House recessed until 4:00 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 adoption of **SCR 1616**.

The Senate adopts conference committee report on **S. Sub. for HB 2072**.

The Senate adopts conference committee report on **HB 2214**.

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate concurrent resolution was thereupon introduced and read by title: **SCR 1616**.

#### MOTIONS AND RESOLUTIONS OFFERED PREVIOUSLY

On motion of Rep. Huntington, **HR 6033**, A resolution honoring University of Kansas Chancellor Robert E. Hemenway, was adopted.

Reps. Ballard and Davis addressed a few remarks to the members of the House and welcomed Chancellor Hemenway to the House.

#### MOTIONS AND RESOLUTIONS OFFERED PREVIOUSLY

On motion of Rep. Carlin, **HR 6034**, A resolution congratulating and commending President Wefald on his tremendous accomplishments as President of Kansas State University, was adopted.

There being no objection, the following remarks of Rep. Carlin are spread upon the journal:

I have worked with President Wefald for a long time on City, Community and University issues.

Such as Martin Luther King Week Celebrations—since 1993—as we walked across the campus on a cold January night;

As he supported the Mayor's Hunger Banquet for the Flinthills Breadbasket, when I was the Mayor of Manhattan, with a reception in his home for our guest speaker;

As a City Commissioner he worked with all of us to support the annexation of Kansas State University into the City of Manhattan which gave us an opportunity to bring in a new source of revenue to the city and we established a city-county fund for improvements to the city and the university with those revenues.

As a student at K State I found him very supportive of the work of the students.

President Wefald is a team player—he has always worked with all the teams: Athletics—We all know what he did for football at KSU, and Men's and Women's Basketball.

He built a new stadium for the Baseball team.

He supported our efforts to create the KSU Rowing Team as an NCAA Sport at K State.

These things are among the ways he worked to make K State a World Class University.

He took on Academics and Research, Athletics and Aesthetics . . . and The Arts—as with the new Beach Museum of Art which Mrs. Wefald personally shepherded into existence—Dance program with the Winter and Spring Dance—and with the Music and Theatre department—and the K State Band.

As a member of the Leadership Advancement Council I have witnessed his leadership in developing this new major at Kansas State.

But he is undoubtedly proudest of the accomplishment of the 125 Rhodes, Truman, Udall and Goldwater scholarships that have been awarded to K State students during his tenure.

Please join me in congratulating President Jon Wefald on a successful 23 years as KSU President and wish him well in his future endeavors.

#### **MOTIONS AND RESOLUTIONS OFFERED PREVIOUSLY**

On motion of Rep. Menghini, **HR 6035**, A resolution honoring Pittsburg State University President Tom Bryant, was adopted.

#### **INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 33**.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 33**, 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 3, preceding line 17, by inserting the following:

“New Section 1. As used in the statewide electronic logging system for sale of methamphetamine precursor act, unless the context otherwise requires:

(a) “Board” means the state board of pharmacy.

(b) “Methamphetamine precursor” means any compound, mixture or preparation containing pseudoephedrine, ephedrine or phenylpropanolamine, or any of their salts or optical isomers, or salts of optical isomers, but does not include products that have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts for precursors, and does not include animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

(c) “Pharmacy” means premises, laboratory, area or other place, including in-state and out-of-state facilities that are required to be registered under K.S.A. 65-1643 or 65-1657, and amendments thereto: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words “pharmacist,” “pharmaceutical chemist,” “pharmacy,” “apothecary,” “drugstore,” “druggist,” “drugs,” “drug sundries” or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign “Rx” may be exhibited.

New Sec. 2. (a) The board shall establish and maintain a program for a statewide electronic logging system for sale of methamphetamine precursors.

(b) Each pharmacy shall maintain an electronic methamphetamine precursor recording log documenting the sale of methamphetamine precursors. The board shall promulgate rules and regulations specifying a standardized format for the log and the information that each pharmacy shall submit to the board, which shall include, but not be limited to:

(1) The name and address of the person purchasing, receiving or otherwise acquiring the methamphetamine precursor;

(2) the name of the product and quantity purchased;

(3) the date and time of the purchase; and



(4) the name, or initials, of the licensed pharmacist, registered pharmacy technician or pharmacy intern or clerk supervised by a licensed pharmacist who sold the product.

(c) Notwithstanding the requirements of this section, each pharmacy shall maintain the purchaser's signature in accordance with subsection (k) of K.S.A. 65-1643, and amendments thereto.

(d) Each pharmacy that is capable shall submit the information from the log in real time in accordance with transmission methods specified in rules and regulations promulgated by the board.

(e) The board may grant a waiver exempting a pharmacy from compliance with the requirements of this section upon showing of good cause by the pharmacy that it is otherwise unable to submit log information by electronic means for various reasons, including, but not limited to, mechanical or electronic failure or financial, technological or any other undue burden on the pharmacy, established by rules and regulations. Such waiver may permit the pharmacy to submit log information by paper form or other means, provided that all information required by rules and regulations is submitted in this alternative format.

(f) No pharmacy or pharmacy employee shall be liable to any person in a civil action for damages or other relief arising from a sale of a methamphetamine precursor that occurs at another pharmacy.

(g) The requirements of this section shall not apply where there is a lawful prescription present for the methamphetamine precursor sold.

New Sec. 3. (a) The cost of establishing and maintaining the statewide electronic logging system shall be borne by the state, other non-state units of government, private entities, or others. Pharmacies shall not be required to bear the costs associated with establishing and maintaining the electronic logging system, through any additional charges, whether statewide, regional, county-wide or otherwise as provided in this section.

(b) In the event that funding for a statewide program is not available, the board may implement the program on a non-statewide basis, whether such program is funded regionally or county-wide or otherwise. The board shall, by rules and regulations, prescribe that such regional or non-statewide program comply with requirements applicable to a statewide program, including that such non-state governmental units or regional programs may not utilize different vendors. Any requirements of this act shall only be applicable to pharmacies within such units of government or regions, if a regional program is established, and all other pharmacies in the state shall be exempt from requirements for the electronic logging system required pursuant to this act.

(c) If the state, other non-state units of government, private entities or others are unable to bear the costs of establishing and maintaining the electronic logging system, pharmacies within the state, or in the case of regional or other non-statewide programs, pharmacies within those program areas shall be relieved of any obligation to comply with the statewide electronic logging system program pursuant to this act. Such pharmacies shall still be subject to the requirements of maintaining a log as provided in subsection (k) of K.S.A. 65-1643, and amendments thereto.

(d) The board shall not impose any additional charges for the establishment or maintenance of the program for the recording of methamphetamine precursors on a pharmacy. The board shall not charge any fees for the transmission of data to the program database or for the receipt of information from the database.

(e) The state board of pharmacy may receive and expend, or supervise the expenditure of, any donation, gift, grant or bequest made to the board for furthering any phase of the statewide electronic logging system program.

New Sec. 4. (a) Methamphetamine precursor recording log information submitted to the board shall be confidential and not a public record and not subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c) and (d).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c) and (d).

(c) The board shall be authorized to provide data in the log to the following persons:

(1) Any person authorized to prescribe or dispense products containing pseudoephedrine, ephedrine or phenylpropanolamine, for the purpose of complying with the provisions of this act; and

(2) local, state and federal law enforcement or prosecutorial officials.

(d) The board may provide data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual patients or persons who received methamphetamine precursors from pharmacies.

New Sec. 5. (a) The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective implementation and operation of the methamphetamine precursor recording log. The state agency or private vendor selected shall have the technological capability to receive electronic log data from pharmacies submitted pursuant to section 2, and amendments thereto, and to send real time notification to law enforcement officials. Regardless of the entity selected to manage the program, pharmacies are not required to use any one particular vendor's product to comply with the requirements under section 2, and amendments thereto. Any electronic system implemented by the state shall be capable of bridging with existing and future operational systems used by pharmacies at no cost to such pharmacies. Any contractor shall be bound to comply with the provisions regarding confidentiality of log information in this section, and amendments thereto, and shall be subject to the penalties specified in section 7, and amendments thereto, for unlawful acts.

(b) All information collected for the program database and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be retained for five years. Such information and records shall then be destroyed unless a law enforcement entity has submitted a written request to the board for retention of specific information or records in accordance with procedures adopted by the board.

(c) The board shall develop and implement a program to educate pharmacies and pharmacy employees about the program for the recording of methamphetamine precursors.

(d) The board shall review the effectiveness of the program for the recording of methamphetamine precursors and submit an annual report to the senate standing committee on public health and welfare and the house standing committee on health and human services.

New Sec. 6. The board shall adopt, within six months after the effective date of this act, such rules and regulations the board deems necessary to carry out the provisions of this act.

New Sec. 7. (a) A pharmacy that knowingly fails to submit methamphetamine precursor recording log information to the board as required by this act or knowingly submits incorrect log information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have log information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have log information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.

New Sec. 8. Sections 1 through 8, and amendments thereto, shall be known and may be cited as the statewide electronic logging system for sale of methamphetamine precursor act.

Sec. 9. K.S.A. 2008 Supp. 65-1643 is hereby amended to read as follows: 65-1643. It shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the

public health or safety; (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety.

(c) For any person to distribute at wholesale any drugs without first obtaining a registration so to do from the board.

(d) For any person to sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products covered by this section are to be sold or offered for sale.

(e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection (f), for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in subsection ~~(m)~~ (dd) of K.S.A. 65-1626 and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a and amendments thereto and any rules and regulations adopted pursuant thereto.

(i) For any person to be a pharmacy student without first obtaining a registration to do so from the board, in accordance with rules and regulations adopted by the board, and paying a pharmacy student registration fee of \$25 to the board.

(j) For any person to operate a veterinary medical teaching hospital pharmacy without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1662 and amendments thereto and any rules and regulations adopted pursuant thereto.

(k) For any person to sell or distribute in a pharmacy a controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto, unless:

(1) (A) Such controlled substance is sold or distributed by a licensed pharmacist, a registered pharmacy technician or a pharmacy intern or clerk supervised by a licensed pharmacist;

(B) any person purchasing, receiving or otherwise acquiring any such controlled substance produces a photo identification showing the date of birth of the person and signs a log and enters in the log, or allows the seller to enter in the log, such person's address and the date and time of sale *or allows the seller to enter such information into an electronic logging system pursuant to section 2*. The log or database required by the board shall be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer;

(C) the seller determines that the name entered in the log corresponds to the name provided on such identification and that the date and time entered are correct; and

(D) the seller enters in the log the name of the controlled substance and the quantity sold; or

(2) there is a lawful prescription.

(l) For any pharmacy to allow customers to have direct access to any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto. Such controlled substance shall be placed behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access.

(m) A seller who in good faith releases information in a log pursuant to subsection (k) to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

(n) *For any person to sell or lease or offer for sale or lease durable medical equipment without first obtaining a registration from the board, in accordance with rules and regulations adopted by the board, except that this subsection shall not apply to:*

(1) *Sales not made in the regular course of the person's business; or*

(2) *sales by charitable organizations exempt from federal income taxation pursuant to the internal revenue code of 1986, as amended.*

New Sec. 10. (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the state board of pharmacy may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of pharmacy is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of pharmacy may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the state board of pharmacy in taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate and shall release all records of adult convictions and non-convictions and adult convictions or adjudications of another state or country to the state board of pharmacy.

(c) The state board of pharmacy may fix and collect a fee as may be required by the board in an amount equal to the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the pharmacy fee fund. The board of pharmacy shall remit all moneys received by or for it from fees, charges or penalties 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 pharmacy fee fund.

(d) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.”;

And by renumbering the remaining sections accordingly;

On page 5, in line 28, following “Supp.” by inserting “65-1643, 65-1643b and”;

In the title, in line 21, preceding "amending" by inserting "fingerprinting and criminal history record checks; creating a statewide electronic logging system for the sale of methamphetamine precursors;"; in line 22, preceding "65-1663" by inserting "65-1643 and"; in line 23, preceding the period by inserting "; also repealing K.S.A. 2008 Supp. 65-1643b";

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

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

JIM BARNETT  
VICKI SCHMIDT  
DAVID HALEY  
*Conferees on part of Senate*

On motion of Rep. Patton to adopt the conference committee report on **SB 33**, Rep. Shultz offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion did not prevail.

The question then reverted back to the original motion of Rep. Patton and the conference committee report was adopted.

On roll call, the vote was: Yeas 98; Nays 21; Present but not voting: 0; Absent or not voting: 6.

Yeas: Ballard, Benlon, Bethell, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Goyle, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, Horst, Huntington, Jack, Johnson, Kerschen, Kiegerl, King, Kinzer, Kleeb, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, Menghini, Morrison, Moxley, Navinsky, Neighbor, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peterson, Phelps, Pottorff, Prescott, Proehl, Quigley, Roth, Ruiz, Seiwert, 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: Aurand, Bowers, A. Brown, Carlson, Faber, Fund, Gordon, M. Holmes, Huebert, Kelley, Knox, McLeland, Merrick, Neufeld, Peck, Powell, Rhoades, Sawyer, Schroeder, Schwartz, Shultz.

Present but not voting: None.

Absent or not voting: Grange, Hawk, Landwehr, Myers, Rardin, Schwab.

#### CHANGE OF CONFEREES

Speaker pro tem Siegfried announced the appointment of Reps. Neufeld, Kiegerl and Loganbill as members of the conference committee on **HB 2115** to replace Reps. C. Holmes, Knox and Kuether.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Menghini, the House concurred in Senate amendments to **S. Sub. for Sub. HB 2365**, An act concerning taxation; relating to settlement authority of secretary of revenue, certain assessments; income tax credits, limitations; valuation of land devoted to agricultural use for estate tax purposes; periods of limitation for certain refunds and credits; sales tax exemptions; homestead property tax refunds; amending K.S.A. 2008 Supp. 79-15,253, 79-3230, 79-32,211, 79-32,258, 79-3606, 79-3609 and 79-4502 and repealing the existing sections.

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

On roll call, the vote was: Yeas 65; Nays 56; Present but not voting: 0; Absent or not voting: 4.

Yeas: Ballard, Benlon, Bethell, Brookens, T. Brown, Burroughs, Carlin, Craft, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Henderson, Henry, Hill, Hineman, Horst, Johnson, King, Kuether, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Menghini,

Moxley, Navinsky, Neighbor, Palmer, Pauls, Peterson, Phelps, Pottorff, Proehl, Quigley, Roth, Ruiz, Sawyer, Slattery, Sloan, Spalding, Svaty, Swenson, Talia, Tietze, Trimmer, Ward, Wetta, Williams, Winn, K. Wolf, Worley.

Nays: Aurand, Bowers, A. Brown, Brunk, Burgess, Carlson, Colloton, Crum, DeGraaf, Donohoe, Faber, Fund, George, Goico, Gordon, Hayzlett, Hermanson, C. Holmes, M. Holmes, Huebert, Huntington, Jack, Kelley, Kerschen, Kiegerl, Kinzer, KleeB, Knox, Landwehr, Mast, McLeland, Merrick, Morrison, Myers, Neufeld, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Powell, Prescott, Rhoades, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Swanson, Tafanelli, Vickrey, Watkins, Whitham, B. Wolf, Yoder.

Present but not voting: None.

Absent or not voting: Grange, Hawk, Rardin, Schwab.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: Yesterday, we became a unicameral legislature by passing a budget bill that was not debated in the House. We later found out that the bill has done an injustice to our judicial system, the disabled, the mentally ill and many others.

Now we are passing a bill that gets us to basically a zero balance with smoke and mirrors. Mr. Speaker, I vote "no" on **S. Sub. for Sub. HB 2365**. In all my years in the legislature, this is probably the most irresponsible action I have ever seen.—PEGGY MAST

MR. SPEAKER: I vote "No" on the motion to concur with the Senate amendments to **S. Sub. for HB 2365**. Passage of the Senate Substitute means increases in the amount of taxes families who have children in day cares, families who adopt children, National Guard members, agriculture producers, businesses trying to recover from national disasters and many more will pay. Not only are many provisions of **S. Sub. for HB 2365** a tax increase but, it does little to fill the hole created by the irresponsible spending bill the Legislature passed yesterday. It is ridiculous for members of this body to think that a \$17,000 ending balance is acceptable.—BRENDA K. LANDWEHR, VIRGIL PECK, JR., ANTHONY R. BROWN, KASHA KELLEY, STEVEN R. BRUNK, WILLIE PRESCOTT, PETE DEGRAAF, FORREST KNOX, PHIL HERMANSON

MR. SPEAKER: It's troubling we would pass such an important bill without any input from this chamber. By not working towards a compromise the Legislature has taken a temporary approach to a long-term problem. The supporters have passed a bill that damages the state. This bill will leave a 17,000 dollar ending balance and the Legislature will be forced to deal with substantial debt again next session. Relying on one-time money is irresponsible and does nothing to fix the structural imbalance in the budget. For these reasons, I vote "No" on **S. Sub. for HB 2365**.—JOE SEIWERT, CONNIE O'BRIEN, MARVIN KLEEB, RICHARD CARLSON, KEVIN YODER, DAN KERSCHEN, ROCKY FUND, AARON JACK, MARC RHOADES, DAVID CRUM, DON MYERS

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2060**, 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, following line 19, by inserting the following:

"New Section 1. (a) There is hereby created the joint committee on parole board oversight within the legislative branch of state government.

(b) The joint committee shall be composed of six members as follows: the chairperson and the ranking minority member of the standing senate committee on judiciary; the chairperson and the ranking minority member of the standing house committee on corrections and juvenile justice; one member appointed by the chairperson of the standing senate committee on judiciary; and one member appointed by the chairperson of the standing house committee on corrections and juvenile justice. The chairperson of the standing house committee on corrections and juvenile justice shall be the chairperson of the joint committee.

(c) Documents, records and reports from the parole board concerning factors and rationale used to determine the granting or denial of parole, as specified in subsection (d), shall be available to members of the joint committee, when carrying out such committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Documents, records and reports received by the joint committee are confidential and shall not be further disclosed. Such documents, records and reports received shall have information redacted which identifies any person or location, including, but not limited to, a city or county, except this provision shall not apply to the name of the inmate whose records are being reviewed. Such documents, records and reports received shall not be subject to K.S.A. 45-221, and amendments thereto. All copies of such documents, records and reports shall be returned to the parole board prior to the open meeting resuming. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

(d) (1) The parole board shall provide documents, records and reports to the joint committee related to the following:

(A) 15 parole board cases, selected by the secretary of corrections, involving inmates with sentencing dates prior to July 1, 1993, where the person was sentenced to prison for a crime committed prior to July 1, 1993, the person was not eligible for retroactive application of the sentencing guidelines pursuant to K.S.A. 21-4724, and amendments thereto, and the person is still incarcerated; and

(B) 15 parole board cases, selected by the secretary of corrections, involving inmates with sentencing dates prior to July 1, 1993, where the person was sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program for a crime committed prior to July 1, 1993, the person was not eligible for retroactive application of the sentencing guidelines pursuant to K.S.A. 21-4724, and amendments thereto, and the person is still incarcerated.

(2) The parole board shall also provide to the joint committee a summary statement of the factors and rationale used to determine the granting or denial of parole in each such case and any correspondence received by the parole board relating to such grant or denial.

(3) The secretary of corrections shall select parole board cases representative of a variety of circumstances including, but not limited to: Inmates with different custody levels at the time of such inmates' parole hearings; inmates with different types of offenses or conduct that resulted in such inmates' incarceration; and inmates incarcerated in different state correctional facilities.

(e) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee to the extent that the same do not conflict with the specific provisions of this section applicable to the joint committee.

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

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

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

(i) The joint committee shall prepare and submit a final report and recommendations to the legislature on or before January 1, 2010.

(j) The provisions of this section shall expire on January 1, 2010.

Sec. 2. K.S.A. 8-1568 is hereby amended to read as follows: 8-1568. (a) (1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, ~~or who otherwise flees or attempts to elude~~ for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3). ~~The signal given by the police officer may be by hand, voice, emergency light or siren. The officer giving such signal shall be in uniform, prominently~~

displaying such officer's badge of office, and the officer's vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle.

(2) *Any driver of a motor vehicle who willfully otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c)(1), (2) or (3).*

(3) *It shall be an affirmative defense to any prosecution under paragraph (1) of this subsection that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle.*

(b) Any driver ~~who violates the provisions of subsection (a)~~ of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, and who: (1) Commits any of the following during a police pursuit: (A) Fails to stop for a police road block; (B) drives around tire deflating devices placed by a police officer; (C) engages in reckless driving as defined by K.S.A. 8-1566 and amendments thereto; (D) is involved in any motor vehicle accident or intentionally causes damage to property; or (E) commits five or more moving violations; or

(2) is attempting to elude capture for the commission of any felony, shall be guilty as provided in subsection (c)(4).

(c) (1) ~~Every person convicted of violating~~ *Violation of subsection (a), upon a first conviction, shall be guilty of is a class B nonperson misdemeanor.*

(2) ~~Every person convicted of violating~~ *Violation of subsection (a), upon a second conviction of such subsection, shall be guilty of is a class A nonperson misdemeanor.*

(3) ~~Every person convicted of violating~~ *Violation of subsection (a), upon a third or subsequent conviction of such subsection, shall be guilty of is a severity level 9, person felony.*

(4) ~~Every person convicted of violating~~ *Violation of subsection (b) shall be guilty of is a severity level 9, person felony.*

(d) *The signal given by the police officer may be by hand, voice, emergency light or siren:*

(1) *If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or*

(2) *if the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given.*

~~(e)~~ (e) For the purpose of this section:

(1) "Conviction" means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(2) "Appropriately marked" official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle.

~~(f)~~ (f) The division of vehicles of the department of revenue shall promote public awareness of the provisions of this section when persons apply for or renew such person's driver's license.

Sec. 3. K.S.A. 21-3419 is hereby amended to read as follows: 21-3419. (a) A criminal threat is any threat to:

(1) Commit violence communicated with intent to terrorize another, or to cause the evacuation, *lock down or disruption in regular, ongoing activities* of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such terror or evacuation, *lock down or disruption in regular, ongoing activities*;

(2) adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply; or

(3) expose any animal in this state to any contagious or infectious disease.

(b) A criminal threat is a severity level 9, person felony.



(c) As used in this section, “threat” includes any statement that one has committed any action described by subsection (a)(1) or (2).

Sec. 4. K.S.A. 2008 Supp. 21-3419a is hereby amended to read as follows: 21-3419a. (a) Aggravated criminal threat is the commission of one or more crimes of criminal threat, as defined in K.S.A. 21-3419 and amendments thereto, when a public, commercial or industrial building, place of assembly or facility of transportation is evacuated, *locked down or disrupted as to regular, ongoing activities* as a result of the threat or threats.

(b) Aggravated criminal threat is a severity level 5, person felony.”;

And by renumbering sections accordingly;

On page 2, in line 7, by striking “attending the”; in line 8, by striking “conduct” and inserting “attendance”;

On page 3, in line 1, by striking all preceding “of” and inserting “, unlawful attendance”; following line 39, by inserting the following:

“Sec. 8. K.S.A. 21-4603d is hereby amended to read as follows: 21-4603d. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502, and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape, as defined in K.S.A. 21-3809, and amendments thereto, or aggravated escape, as defined in K.S.A. 21-3810, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire which has been determined to be arson under K.S.A. 21-3718 or 21-3719, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant’s conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10); or

(12) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 21-4018, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502, and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671 prior to its repeal or K.S.A. ~~2007~~ 2008 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(3) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and whose offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendment thereto or a community intermediate sanction center. Pursuant to this paragraph the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed

by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, or for an offense which is classified in gridblocks 4-E or 4-F of the sentencing guidelines grid for drug crimes and such offense does not meet the requirements of K.S.A. 21-4729, and amendments thereto, and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) Except as provided by subsection (f) of K.S.A. 21-4705, and amendments thereto, in addition to any of the above, for felony violations of ~~K.S.A. 65-4160 or 65-4162~~ *section 6 of 2009 House Bill No. 2236*, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 21-4729, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. ~~2007~~ 2008 Supp. 75-52,144, and amendments thereto, including but not limited to, an approved after-care plan. If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to revocation of probation and the defendant shall serve the underlying prison sentence as established in K.S.A. 21-4705, and amendments thereto. For those offenders who are convicted on or after the effective date of this act, upon completion of the underlying prison sentence, the defendant shall not be subject to a period of postrelease supervision. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(o) (1) *Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of section 6 of 2009 House Bill No. 2236, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.*

(2) *Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.*

(3) (A) *In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.*

(B) *Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.*

(C) *Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.*

(4) *As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto.*

Sec. 9. K.S.A. 21-4611 is hereby amended to read as follows: 21-4611. (a) The period of suspension of sentence, probation or assignment to community corrections fixed by the court shall not exceed five years in felony cases involving crimes committed prior to July 1, 1993, or two years in misdemeanor cases, subject to renewal and extension for additional fixed periods not exceeding five years in such felony cases, nor two years in misdemeanor cases. In no event shall the total period of probation, suspension of sentence or assignment to community corrections for a felony committed prior to July 1, 1993, exceed the greatest maximum term provided by law for the crime, except that where the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. Probation, suspension of sentence or assignment to community corrections may be terminated by the court at any time and upon such termination or upon termination by expiration of the term of probation, suspension of sentence or assignment to community corrections, an order to this effect shall be entered by the court. The provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

(b) The district court having jurisdiction of the offender may parole any misdemeanor sentenced to confinement in the county jail. The period of such parole shall be fixed by the court and shall not exceed two years and shall be terminated in the manner provided for termination of suspended sentence and probation.

(c) For all crimes committed on or after July 1, 1993, the duration of probation in felony cases sentenced for the following severity levels on the sentencing guidelines grid for non-drug crimes and the sentencing guidelines grid for drug crimes is as follows:

(1) For nondrug crimes the recommended duration of probations is:

- (A) Thirty-six months for crimes in crime severity levels 1 through 5; and  
 (B) 24 months for crimes in crime severity levels 6 and 7.
- (2) For drug crimes the recommended duration of probation is 36 months for crimes in crime severity levels 1 and 2.
- (3) *Except as otherwise provided*, in felony cases sentenced at severity levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and severity level 4 on the sentencing guidelines grid for drug crimes, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, ~~or assignment to a community correctional services program as provided under K.S.A. 75-5291 et seq., and amendments thereto~~, of up to 12 months in length.
- (4) In felony cases sentenced at severity level 8 on the sentencing guidelines grid for nondrug crimes ~~and~~, severity level 3 on the sentencing guidelines grid for drug crimes *and felony cases sentenced pursuant to K.S.A. 21-4729, and amendments thereto*, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program, as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 18 months in length.
- (5) If the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by the length of the probation terms provided in subsections (c)(3) and (c)(4), the court may impose a longer period of probation. Such an increase shall not be considered a departure and shall not be subject to appeal.
- (6) Except as provided in subsections (c)(7) and (c)(8), the total period in all cases shall not exceed 60 months, or the maximum period of the prison sentence that could be imposed whichever is longer. Nonprison sentences may be terminated by the court at any time.
- (7) If the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. If the defendant is ordered to pay full or partial restitution, the period may be continued as long as the amount of restitution ordered has not been paid.
- (8) The court may modify or extend the offender's period of supervision, pursuant to a modification hearing and a judicial finding of necessity. Such extensions may be made for a maximum period of five years or the maximum period of the prison sentence that could be imposed, whichever is longer, inclusive of the original supervision term.
- (d) The provisions of subsection (c), as amended by this act, shall be applied retroactively. The sentencing court shall direct that a review of all persons serving a nonprison sanction for a crime in severity levels 8, 9 or 10 of the sentencing guidelines grid for nondrug crimes or a crime in severity levels 3 or 4 of the sentencing guidelines grid for drug crimes be conducted. On or before September 1, 2000, the duration of such person's probation shall be modified in conformity with the provisions of subsection (c).";
- And by renumbering the remaining sections accordingly;
- On page 7, in line 35, by striking "the uniform controlled substances act, K.S.A. 65-4101 et seq." and inserting "sections 1 through 17 of 2009 House Bill No. 2236"; in line 40, by striking "the uniform controlled substances act, K.S.A. 65-4101 et seq." and inserting "sections 1 through 17 of 2009 House Bill No. 2236";
- On page 9, in line 39, preceding the period by inserting "and shall be served consecutively to any other term or terms of imprisonment imposed";
- On page 10, in line 2, by striking all after "under" and inserting "sections 1 through 17 of 2009 House Bill No. 2236, and amendments thereto,";
- On page 12, in line 2, by striking all after "of" where it appears for the last time and inserting "sections 1 through 17 of 2009 House Bill No. 2236, and amendments thereto,";
- On page 13, in line 3, after "65-4159" by inserting ", prior to its repeal, or section 3 of 2009 House Bill No. 2236,"; in line 15, before "and" by inserting "prior to such section's repeal, or section 6 of 2009 House Bill No. 2236,"; in line 17, by striking "Such" and inserting "Subject to appropriations therefor, such"; in line 20, following the period by inserting "If the secretary determines that substance abuse treatment resources are otherwise available, such term of imprisonment may be served in a facility designated by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance

abuse treatment program. The secretary's determination regarding the availability of treatment resources shall not be subject to review."; by striking all in lines 41 through 43;

By striking all on page 14;

On page 15, by striking all in lines 1 through 15 and inserting the following:

"(g) (1) Except as provided further, if the trier of fact makes a finding that an offender carried a firearm to commit a drug felony, or in furtherance of a drug felony, possessed a firearm, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to:

(A) Except as provided in subparagraph (1)(B), an additional 6 months' imprisonment; and

(B) if the trier of fact makes a finding that the firearm was discharged, an additional 18 months' imprisonment.

(2) The sentence imposed pursuant to paragraph (1) shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to violations of section 6 or 13 of 2009 House Bill No. 2236, and amendments thereto.

Sec. 12. K.S.A. 2008 Supp. 21-4714 is hereby amended to read as follows: 21-4714. (a) The court shall order the preparation of the presentence investigation report by the court services officer as soon as possible after conviction of the defendant.

(b) Each presentence report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information:

(1) A summary of the factual circumstances of the crime or crimes of conviction.

(2) If the defendant desires to do so, a summary of the defendant's version of the crime.

(3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim.

(4) An appropriate classification of each crime of conviction on the crime severity scale.

(5) A listing of prior adult convictions or juvenile adjudications for felony or misdemeanor crimes or violations of county resolutions or city ordinances comparable to any misdemeanor defined by state law. Such listing shall include an assessment of the appropriate classification of the criminal history on the criminal history scale and the source of information regarding each listed prior conviction and any available source of journal entries or other documents through which the listed convictions may be verified. If any such journal entries or other documents are obtained by the court services officer, they shall be attached to the presentence investigation report. Any prior criminal history worksheets of the defendant shall also be attached.

(6) A proposed grid block classification for each crime, or crimes of conviction and the presumptive sentence for each crime, or crimes of conviction.

(7) If the proposed grid block classification is a grid block which presumes imprisonment, the presumptive prison term range and the presumptive duration of postprison supervision as it relates to the crime severity scale.

(8) If the proposed grid block classification does not presume prison, the presumptive prison term range and the presumptive duration of the nonprison sanction as it relates to the crime severity scale and the court services officer's professional assessment as to recommendations for conditions to be mandated as part of the nonprison sanction.

(9) For defendants who are being sentenced for a conviction of a felony violation of K.S.A. 65-4160 or 65-4162, *prior to such section's repeal, or section 6 of 2009 House Bill No. 2236*, and amendments thereto, and meet the requirements of K.S.A. 21-4729, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(10) For defendants who are being sentenced for a third or subsequent felony conviction of a violation of K.S.A. 65-4160 or 65-4162, *prior to such section's repeal, or section 6 of 2009 House Bill No. 2236*, and amendments thereto, the drug abuse assessment as provided in K.S.A. 21-4729, and amendments thereto.

(c) The presentence report will become part of the court record and shall be accessible to the public, except that the official version, defendant's version and the victim's statement, any psychological reports, risk and needs assessments and drug and alcohol reports and

assessments shall be accessible only to the parties, the sentencing judge, the department of corrections, and if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A. 75-5220 and amendments thereto to the warden of the state correctional institution to which the defendant is conveyed.

(d) The criminal history worksheet will not substitute as a presentence report.

(e) The presentence report will not include optional report components, which would be subject to the discretion of the sentencing court in each district except for psychological reports and drug and alcohol reports.

(f) *Except as provided in K.S.A. 21-4715, and amendments thereto*, the court can take judicial notice in a subsequent felony proceeding of an earlier presentence report criminal history worksheet prepared for a prior sentencing of the defendant for a felony committed on or after July 1, 1993.

(g) All presentence reports in any case in which the defendant has been convicted of a felony shall be on a form approved by the Kansas sentencing commission.

Sec. 13. K.S.A. 21-4715 is hereby amended to read as follows: 21-4715. (a) The offender's criminal history shall be admitted in open court by the offender or determined by a preponderance of the evidence at the sentencing hearing by the sentencing judge.

(b) Except to the extent disputed in accordance with subsection (c), the summary of the offender's criminal history prepared for the court by the state shall satisfy the state's burden of proof regarding an offender's criminal history.

(c) Upon receipt of the criminal history worksheet prepared for the court, the offender shall immediately notify the district attorney and the court with written notice of any error in the proposed criminal history worksheet. Such notice shall specify the exact nature of the alleged error. The state shall have the burden of producing further evidence to satisfy its burden of proof regarding any disputed part, or parts, of the criminal history and the sentencing judge shall allow the state reasonable time to produce such evidence to establish the disputed portion of the criminal history by a preponderance of the evidence. *If the offender later challenges such offender's criminal history, which has been previously established, the burden of proof shall shift to the offender to prove such offender's criminal history by a preponderance of the evidence.*

Sec. 14. K.S.A. 2008 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

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

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) preliminary discussions relating to the acquisition of real property;
- (7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;



(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection (e) of K.S.A. 38-1508 and amendments thereto;

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

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

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

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

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

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

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2008 Supp. 75-7427, and amendments thereto; *and*

(16) *matters permitted to be discussed in a closed or executive meeting pursuant to section 1, and amendments thereto.*

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

(d) (1) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(2) (A) *Except as otherwise provided by law, any confidential documents, records or reports relating to the parole board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.*

(B) *Notwithstanding any other provision of law to the contrary, any summary statement provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.*

Sec. 15. K.S.A. 2008 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a)

(1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

(2) Except as otherwise provided, placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified

in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a non-prison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) on and after ~~July 1, 2010~~ *January 1, 2011*, for offenders who are expected to be subject to supervision in Kansas, who are determined to be "high risk or needs, or both" by the use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission;

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

(G) who has been sentenced to community corrections supervision pursuant to K.S.A. 21-4729, and amendments thereto.

(3) ~~(A)~~ Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before ~~July 1, 2010~~ *January 1, 2011*, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this paragraph shall expire on ~~July 1, 2010~~ *January 1, 2011*.

~~(B) On or before the first day of the 2009 legislative session, the Kansas sentencing commission shall submit a written report on such offender program to the senate standing committee on judiciary and the house of representatives standing committee on judiciary.~~

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community corrections advisory committee to identify new or enhanced correctional or treatment interventions designed to divert offenders from prison.

(2) The secretary shall appoint one member from the southeast community corrections region, one member from the northeast community corrections region, one member from the central community corrections region and one member from the western community corrections region. The deputy secretary of community and field services shall designate two members from the state at large. The secretary shall have final appointment approval of the members designated by the deputy secretary. The committee shall reflect the diversity of community correctional services with respect to geographical location and average daily population of offenders under supervision.

(3) Each member shall be appointed for a term of three years and such terms shall be staggered as determined by the secretary. Members shall be eligible for reappointment.

(4) The committee, in collaboration with the deputy secretary of community and field services or the deputy secretary's designee, shall routinely examine and report to the secretary on the following issues:

- (A) Efficiencies in the delivery of field supervision services;
- (B) effectiveness and enhancement of existing interventions;
- (C) identification of new interventions; and
- (D) statewide performance indicators.

(5) The committee's report concerning enhanced or new interventions shall address:

- (A) Goals and measurable objectives;
- (B) projected costs;
- (C) the impact on public safety; and
- (D) the evaluation process.

(6) The committee shall submit its report to the secretary annually on or before July 15 in order for the enhanced or new interventions to be considered for inclusion within the department of corrections budget request for community correctional services or in the department's enhanced services budget request for the subsequent fiscal year.

Sec. 16. K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, 21-4714, 21-4714, as amended by section 37 of 2009 House Bill No. 2236, 75-4319 and 75-5291 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, by striking all in lines 12 through 17 and inserting the following: “AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714, 75-4319 and 75-5291 and repealing the existing sections; also repealing K.S.A. 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, and K.S.A. 2008 Supp. 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, and 21-4714, as amended by section 37 of 2009 House Bill No. 2236.”;

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

THOMAS C. OWENS  
DEREK SCHMIDT  
LAURA KELLY  
*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 **HB 2060** was adopted. On roll call, the vote was: Yeas 100; Nays 17; Present but not voting: 0; Absent or not voting: 8.

Yeas: Aurand, Ballard, Benlon, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Colloton, Crow, Crum, Davis, DeGraaf, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Goyle, Grant, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, Horst, Huntington, Jack, Johnson, Kerschen, King, Kinzer, Kleeb, Kuether, 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, Pottorff, Prescott, Proehl, Quigley, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Seivert, Shultz, Siegfried, Slatery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: A. Brown, Carlson, Craft, Donohoe, Faber, Gordon, Hayzlett, M. Holmes, Huebert, Kelley, Knox, McLeland, Merrick, Neufeld, Peck, Powell, Schwartz.

Present but not voting: None.

Absent or not voting: Bethell, Grange, Hawk, Kiegerl, Landwehr, Light, Rardin, Schwab.

On motion of Rep. Merrick, the House recessed until 7:00 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

Announcing adoption of **SCR 1618**.

#### INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate concurrent resolution was thereupon introduced and read by title: **SCR 1618**.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 336**.

#### INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Merrick pursuant to House Rule 2311, **SB 336** was advanced to Final Action on Bills and Concurrent Resolutions, subject to amendment, debate and roll call.

#### FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Rep Kinzer, **SB 336** was amended on page 88, in line 22, by striking "20-376" and inserting "20-367";

On page 1, in the title, in line 38, by striking "20-376" and inserting "20-367";

**SB 336**, An act reconciling amendments to certain statutes and making certain technical changes related thereto; amending K.S.A. 16a-6-117, as amended by section 23 of 2009 Senate Bill No. 240, 20-3201, 21-3826, as amended by section 1 of 2009 Senate Bill No. 237, and 72-4423, as amended by section 11 of 2009 House Bill No. 2003, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 Senate Bill No. 275, 8-1567, as amended by section 5 of 2009 Senate Substitute for House Bill No. 2096, 8-2110, as amended by section 1 of 2009 Senate Bill No. 158, 12-5242, 19-101a, 20-367, 22-3716, 25-4156, 25-4169a, 28-172a, as amended by section 15 of 2009 Senate Bill No. 66, 38-2211, 38-2255, as amended by section 6 of 2009 Senate Bill No. 134, 45-221, as amended by section 27 of 2009 House Bill No. 2052, 59-104, as amended by section 19 of 2009 Senate Bill No. 66, 60-1621, as amended by section 22 of 2009 Senate Bill No. 66, 60-2001, as amended by section 23 of 2009 Senate Bill No. 66, 60-4104, as amended by section 1 of 2009 Substitute for Senate Bill No. 28, 61-2704, as amended by section 25 of 2009 Senate Bill No. 66, 61-4001, as amended by section 26 of 2009 Senate Bill No. 66, 65-1643, 65-2878, 66-2005, 72-6448, 75-7c04, as amended by section 2 of 2009 House Bill No. 2308, 75-7427, 76-3110, 79-213, 79-5a27 and 79-32,117 and section 16 of 2009 House Bill No. 2236 and repealing the existing sections; also repealing K.S.A. 20-3201, as amended by section 1 of 2009 House Bill No. 2111, 21-3826, as amended by section 27 of 2009 House Bill No. 2236, 65-4142, as amended by section 1 of 2009 House Bill No. 2059, and 76-3110, as amended by section 36 of chapter 145 of the 2004 Session Laws of Kansas, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 House Bill No. 2152, 8-1567, as amended by section 19 of 2009 House Bill No. 2236, 8-2110, as amended by section 3 of 2009 Senate Bill No. 66, 12-1773a, 12-5242a, 12-5242b, 19-101m, 20-367, as amended by section 2 of 2009 House Bill No. 2111,

22-3716a, 25-4156a, 25-4169b, 28-172a, as amended by section 3 of 2009 House Bill No. 2111, 38-2211a, 38-2255, as amended by section 47 of 2009 House Bill No. 2236, 39-756d, 45-221, as amended by section 2 of 2009 Senate Bill No. 87, 45-229b, 59-104, as amended by section 4 of 2009 House Bill No. 2111, 60-1621, as amended by section 5 of 2009 House Bill No. 2111, 60-2001, as amended by section 6 of 2009 House Bill No. 2111, 60-2102a, 60-2403a, 60-4104, as amended by section 51 of 2009 House Bill No. 2236, 61-2704, as amended by section 7 of 2009 House Bill No. 2111, 61-3003a, 61-4001, as amended by section 8 of 2009 House Bill No. 2111, 65-1643b, 65-2878b, 66-2005a, 72-6433c, 72-6448, as amended by section 1 of 2009 House Bill No. 2002, 75-7c04, as amended by section 60 of 2009 House Bill No. 2236, 75-7427a, 79-213e, 79-5a27a and 79-32,117m and section 1 of 2009 Senate Substitute for House Bill No. 2126, was considered on final action.

On roll call, the vote was: Yeas 115; Nays 0; Present but not voting: 0; Absent or not voting: 10.

Yeas: Aurand, Ballard, Benlon, 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, Goico, Gordon, Goyle, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, King, Kinzer, Kleeb, Knox, Kuether, Lane, Light, 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, Rhoades, Roth, Ruiz, Sawyer, Schroeder, 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: Bethell, George, Grange, Hawk, Kiegerl, Landwehr, Loganbill, Neufeld, Rardin, Schwab.

The bill passed, as amended.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2374**.

#### MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Brunk, the House concurred in Senate amendments to **HB 2374**. An act concerning employment security law; relating to alternative base periods, approved job training and part-time employees' eligibility for benefits; amending K.S.A. 2008 Supp. 44-703, 44-704c and 44-705 and repealing the existing sections.

On roll call, the vote was: Yeas 111; Nays 8; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Benlon, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kerschen, Kiegerl, King, Kleeb, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Pauls, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rhoades, Roth, Ruiz, Sawyer, Schroeder, 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: A. Brown, Donohoe, Faber, Kelley, Kinzer, Merrick, Patton, Peck.

Present but not voting: None.

Absent or not voting: Bethell, George, Grange, Hawk, Rardin, Schwab.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2162**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2162**, submits the following report:

The Senate recedes from all of its amendments to the bill;

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

JIM BARNETT  
VICKI SCHMIDT  
DAVID HALEY  
*Conferees on part of Senate*

BRENDA K. LANDWEHR  
DAVID CRUM  
GERALDINE FLAHARTY  
*Conferees on part of House*

On motion of Rep. Crum, the conference committee report on **HB 2162** was adopted. On roll call, the vote was: Yeas 119; Nays 0; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Benlon, 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, Goico, Gordon, Goyle, Grant, 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, Rhoades, Roth, Ruiz, Sawyer, Schroeder, 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: Bethell, George, Grange, Hawk, Rardin, Schwab.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2158**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2158**, submits the following report:

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

On page 3, by striking all in line 17 and inserting in lieu thereof the following:

"New Sec. 2. (a) The board of county commissioners of Sherman county may provide for the election of county commissioners in accordance with this section. The procedure for the election of county commissioners shall be adopted by resolution in accordance with the provisions of K.S.A. 19-204 and amendments thereto. The resolution shall be in substantial compliance with the provisions of subsection (b). Any county commissioner whose term has

not expired by the time the resolution has been adopted by the voters of Sherman county, Kansas, shall continue to serve until a successor county commissioner is elected.

(b) (1) Each county commissioner shall run at large. Each candidate for county commissioner may reside anywhere within Sherman county, Kansas.

(2) All electors who are otherwise qualified according to law and who reside in Sherman county, Kansas, may vote in both the primary and general election for each county commissioner being elected. Each candidate shall file for the office of county commissioner in the manner provided by law. Elections for the office of county commissioner shall be conducted in accordance with the provisions of article 25 of the Kansas Statutes Annotated, and amendments thereto, except as provided in this section and amendments thereto.

(3) (A) Primary elections under this section shall be conducted on a partisan basis. In the primary election, each qualified voter shall be allowed to vote for the same number of candidates as the number of county commissioners being elected. For each county commissioner being elected, the candidate receiving the highest number of votes shall appear on the ballot in the general election.

(B) No person shall be permitted to cast more than one vote for any specific candidate.

(4) In the general election, each qualified voter shall be allowed to vote for the same number of candidates as the number of county commissioners being elected. The candidate receiving the highest number of votes for each office of county commissioner being elected shall be deemed to have been elected to such office.

(c) (1) The provisions of this section shall expire on December 31, 2010, unless the qualified voters of Sherman county, Kansas, elect to adopt the provisions of this section prior to such date.

(2) If a majority of the qualified electors voting on the resolution submitted to the voters pursuant to this section who reside within the corporate limits of the city of Goodland, Kansas, and a majority of the qualified electors voting on such resolution who reside outside of the corporate limits of the city of Goodland, Kansas, vote in favor thereof, the resolution shall be implemented in the manner provided by the resolution. If a majority of the electors who reside within the corporate limits of the city of Goodland, Kansas or a majority of the qualified electors who reside outside of the corporate limits of the city of Goodland, Kansas, vote against such resolution, the proposed resolution shall not be implemented.

Sec. 3. K.S.A. 19-201 is hereby amended to read as follows: 19-201. *Except as provided in section 2, and amendments thereto*, each county in the state of Kansas shall have three ~~(3)~~, five ~~(5)~~ or seven ~~(7)~~ commissioner districts, which shall be designated numerically and serially beginning with number 1.

The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 4. K.S.A. 19-202 is hereby amended to read as follows: 19-202. (a) The board of county commissioners of each county shall consist of three, five or seven qualified electors.

(b) *Except as provided in section 2, and amendments thereto*, one county commissioner shall reside in and represent each commissioner district within the county. During the time that any person is a candidate for nomination or election to office as a member of the board of county commissioners and during the term of office of the county commissioner, such candidate or county commissioner shall be and remain a qualified elector who resides in such person's district.

(c) Except as provided by K.S.A. 19-203, and amendments thereto, terms of office for the board of county commissioners shall be staggered in such a way that no more than a simple majority of commissioners is elected at any general election.

(d) Except as provided by K.S.A. 19-203, and amendments thereto, all county commissioners shall hold office for a term of four years from the second Monday of January next after their election and until their successors are qualified.

(e) The provisions of subsections (a), (c) and (d) of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 5. K.S.A. 19-203 is hereby amended to read as follows: 19-203. (a) *Subject to the provisions of section 2, and amendments thereto*, when a vacancy occurs in the office of a member of the board of county commissioners, it shall be filled by appointment of a resident

in the district to fill the office for the unexpired term and until a successor is elected and qualified. When a vacancy occurs before May 1 of the first even-numbered year following the commencement of a term of office, it shall be filled by the appointment of a resident of such district who shall serve until a successor is elected and qualified at the next general election. Such successor shall assume office on the second Monday of January next following such election.

(b) Except as provided by subsection (c), appointments under this section shall be made in the manner provided by K.S.A. 25-3902, and amendments thereto, for filling vacancies in district offices.

(c) *Subject to the provisions of section 2, and amendments thereto*, vacancies created by an increase in the number of county commissioner districts in a county pursuant to K.S.A. 19-204, and amendments thereto, shall be filled by appointment of the governor. The governor shall make such appointments within 30 days of the date of the adoption of the resolution dividing the county into commissioner districts or within 30 days of the date of the order of the district court dividing the county into commissioner districts as required by K.S.A. 19-204a, and amendments thereto. Such appointees shall serve until successors are elected and qualified at the next general election. Such successors shall assume office on the second Monday of January next following their election. If at the next general election following such appointments, more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of districts shall be elected for two year terms and until their successors are qualified. Thereafter such members shall be elected to four year terms and until their successors are qualified. The provisions of this subsection shall apply to positions created by an increase in the number of districts at the election held in November 1990 and all such elections thereafter.

Sec. 6. K.S.A. 19-204 is hereby amended to read as follows: 19-204. (a) *Subject to the provisions of section 2, and amendments thereto, and subject to the provisions of K.S.A. 19-204a, and amendments thereto*, the board of county commissioners, on the day of the organization of the board or as soon thereafter as may be possible, shall meet and divide the county into three commissioner districts or such number of districts as is prescribed by resolution of the board, as compact and equal in population as possible, and number them. Such districts shall be subject to alteration at least once every three years.

(b) In Shawnee county, each district shall include residents of both the incorporated and unincorporated areas of the county. The number of residents in each district from the unincorporated area of the county shall be as equal in number, as possible. Such districts shall be subject to alteration at least once every three years.

If the districts do not meet the requirements of this subsection, the districts shall be altered to comply with such requirements no later than 30 days following the effective date of this act.

(c) The board of county commissioners of any county, by resolution, may divide the county into three, five or seven commissioner districts, as compact and equal in population as possible, but no such resolution which would effect a change in the number of commissioner districts shall take effect until it has been approved by a majority of the qualified electors of the county voting thereon at the next general election following not less than 60 days the adoption of such resolution, in which all the qualified electors of the county are entitled to vote. Upon the presentation of a petition to the board of county commissioners, signed by electors equal in number to 5% of the qualified electors of the county and verified by the county election officer, requesting that the number of commissioner districts be changed, the board of county commissioners shall cause such proposition to be submitted to the voters of the county at the next general election, following not less than 60 days the presentation of such petition, in which all of the qualified electors of the county are entitled to vote. In the event that more than one such petition is presented to the board of county commissioners prior to a general election, and any of such petitions conflicts with any other such petition with respect to the number of commissioner districts requested, the board of county commissioners shall decide, by majority vote thereon, which of the propositions shall be submitted to the voters at the next such general election. If a majority of the electors voting at such election shall be in favor of changing the number of commissioner districts,



the board of county commissioners shall provide for the division of the county into commissioner districts as provided in K.S.A. 19-204a, and amendments thereto.

(d) No change in the number of commissioner districts shall become effective in any county within four years of the effective date of any previous change in the number of commissioner districts in such county.

(e) The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 7. K.S.A. 19-204a is hereby amended to read as follows: 19-204a. *Subject to the provisions of section 2, and amendments thereto*, when the voters of a county approve a change in the number of county commissioner districts at an election held under K.S.A. 19-204, and amendments thereto, the board of county commissioners, on or before January 1 immediately following such election, shall adopt a resolution dividing the county into the number of districts approved by the voters. If the board of county commissioners fails to adopt such resolution within the time prescribed, the chief judge of the district court of the county, on or before the following January 31, shall order the county divided into the appropriate number of districts.

Sec. 8. On July 1, 2009, K.S.A. 2008 Supp. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) Corrupt political advertising of a state or local office is:

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word "advertisement" or the abbreviation "adv." in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; ~~or~~

(C) *telephoning or causing to be contacted by any telephonic means including, but not limited to, any device using a voice over internet protocol or wireless telephone, any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is preceded by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;*

~~(D)~~ publishing or causing to be published any brochure, flier or other political fact sheet which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this ~~subsection (C)~~ *subparagraph (D)* requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year; *or*

(E) *making or causing to be made any website, e-mail or other type of internet communication which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the chairperson or treasurer*

of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subparagraph (E) requiring the disclosure of the name of an individual shall apply only to any website, e-mail or other type of internet communication which is made by the candidate, the candidate's candidate committee, a political committee or a party committee and such website, e-mail or other internet communication viewed by or disseminated to at least 25 individuals. For the purposes of this subparagraph, the terms "candidate," "candidate committee," "party committee" and "political committee" shall have the meanings ascribed to them in K.S.A. 25-4143, and amendments thereto.

(2) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section which can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable.

Sec. 9. On July 1, 2009, K.S.A. 2008 Supp. 25-4148 is hereby amended to read as follows: 25-4148. (a) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed *electronically and* only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

(1) The eighth day preceding the primary election, which report shall be for the period beginning on January 1 of the election year for the office the candidate is seeking and ending 12 days before the primary election, inclusive;

(2) the eighth day preceding a general election, which report shall be for the period beginning 11 days before the primary election and ending 12 days before the general election, inclusive;

(3) January 10 of the year after an election year, which report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive;

(4) for any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year;

(5) a treasurer shall file only the annual report required by subsection (4) for those years when the candidate is not participating in a primary or general election.

(b) Each report required by this section shall state:

(1) Cash on hand on the first day of the reporting period;

(2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;

(3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;

(4) the aggregate amount of contributions for which the name and address of the contributor is not known;

(5) each contribution, rebate, refund or other receipt not otherwise listed;

(6) the total of all receipts;

(7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;

(8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate,

candidate committee, party committee or political committee, if the contribution is in excess of \$100 and is not otherwise reported under subsection (b)(7), and the amount, date and purpose of the contribution;

(9) the aggregate of all expenditures not otherwise reported under this section; and

(10) the total of expenditures.

(c) In addition to the requirements of subsection (b), every treasurer for any political committee and party committee shall report the following:

(1) (A) The name and address of each candidate for state or local office for whom an expenditure in the form of an in-kind contribution has been made in an aggregate amount or having a fair market value in excess of \$300, with the amount, date and purpose of each. The report shall show in detail the specific service or product provided; and

(B) the name and address of each candidate for state or local office who is the subject of an expenditure which:

(i) Is made without the cooperation or consent of a candidate or candidate committee;

(ii) expressly advocates the nomination, election or defeat of such candidate; and

(iii) is an aggregate amount or having a fair market value in excess of \$300.

(2) The report shall state the amount, date and purpose of the expenditure in the form of an in-kind contribution. The report shall show in detail the specific service or product provided. The reporting requirements imposed by this subsection shall be in addition to all other requirements required by this section.

(d) Treasurers of candidates and of candidate committees shall itemize the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.

(e) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, a description of the connection to or affiliation with such organization. If, the committee is not connected or affiliated with any one organization, the report shall state the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(f) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions. The notice of the errors or omissions shall be part of the public record. The amended report shall be filed within 30 days after notice by the commission.

(g) The commission may require any treasurer to file a report for any period for which the required report is not on file. The notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the commission.

(h) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of the candidate's committee or by the treasurer of any party committee or political committee, the date of the convention or caucus shall be considered the date of the primary election.

(i) If a report is sent by certified or registered mail on or before the day it is due, the mailing shall constitute receipt by that office.

(j) Any report required by this section may be signed by the candidate in lieu of the candidate's treasurer or the treasurer of the candidate's committee.

Sec. 10. On July 1, 2009, K.S.A. 2008 Supp. 46-247 is hereby amended to read as follows: 46-247. The following individuals shall file written statements of substantial interests, as provided in K.S.A. 46-248 to 46-252, inclusive, and amendments thereto:

(a) Legislators and candidates for nomination or election to the legislature.

(b) Individuals holding an elected office in the executive branch of this state, and candidates for nomination or election to any such office.

(c) State officers, employees and members of boards, councils and commissions under the jurisdiction of the head of any state agency who are listed as designees by the head of a state agency pursuant to K.S.A. 46-285, and amendments thereto.

(d) Individuals whose appointment to office is subject to confirmation by the senate whether or not such individual is a state officer or employee.

(e) General counsels for state agencies irrespective of how compensated.

(f) The administrator or executive director of the education commission of the states, the interstate compact on agricultural grain marketing, the Mo-Kan metropolitan development district and agency compact, the Kansas City area transportation district and authority compact, the midwest nuclear compact, the central interstate low-level radioactive waste compact, the multistate tax compact, the Kansas-Oklahoma Arkansas river basin compact, the Kansas-Nebraska Big Blue river compact, and the multistate lottery.

(g) Private consultants under contract with any agency of the state of Kansas to evaluate bids for public contracts or to award public contracts.

(h) From and after January 1, 2003, any faculty member or other employee of a postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto, who provides consulting services and who, on behalf of or for the benefit of the person for which consulting services are provided:

(1) Promotes or opposes action or nonaction by any federal agency, any state agency as defined by K.S.A. 46-224, and amendments thereto, or any political subdivision of the state or any agency of such political subdivision or a representative of such state agency, political subdivision or agency; or

(2) promotes or opposes action or nonaction relating to the expenditure of public funds of the federal government, the state or political subdivision of the state or agency of the federal government, state or political subdivision of the state.

(i) ~~From and after January 1, 2006, Except as provided by section 11, and amendments thereto,~~ any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, who is employed by a state education institution as defined by K.S.A. 76-711, and amendments thereto.

New Sec. 11. (a) The executive officer of any state educational institution as defined by K.S.A. 76-711, and amendments thereto, may require any faculty member who receives an annual salary of \$50,000 or more, other than an adjunct faculty member, to file a written statement of substantial interests with the employing state educational institution in lieu of filing the statements of substantial interests as required by K.S.A. 46-247, and amendments thereto. The executive officer shall notify the governmental ethics commission in writing of such decision to require filing of faculty statements of substantial interests only with the state educational institution.

(b) The written statement of substantial interests filed with a state educational institution pursuant to this section shall, at a minimum, include the information required by K.S.A. 46-229, and amendments thereto, and shall be an open public record. Any conflict of interests information required by the state board of regents or state educational institution that is in addition to that which is required by K.S.A. 46-229, and amendments thereto, may be placed in the faculty member's personnel records file and discretionarily closed in accordance with K.S.A. 45-221, and amendments thereto.

(c) The written statement of substantial interests required by this section shall be in such form as required by the state board of regents and shall be filed annually as part of the state educational institution's appointment or salary notification process, and supplemented as required by the state board of regents.

(d) The provisions of this section shall take effect on July 1, 2009.

(e) The provisions of this section shall expire on July 1, 2010.

Sec. 12. K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and K.S.A. 2008 Supp. 74-2113 are hereby repealed.

Sec. 13. On July 1, 2009, K.S.A. 2008 Supp. 25-4148, 25-4156, 25-4156a and 46-247 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, by striking all in lines 12 through 15 and inserting in lieu thereof the following: “AN ACT concerning elections and election related issues; amending K.S.A. 19-201, 19-202, 19-203, 19-204 and 19-204a and K.S.A. 2008 Supp. 25-4148, 25-4156, 46-247 and 74-2113 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 25-4156a.”;

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

VICKI SCHMIDT  
PAT APPLE  
OLETHA FAUST-GOUDEAU  
*Conferees on part of Senate*

STEVE HUEBERT  
SCOTT SCHWAB  
TOM SAWYER  
*Conferees on part of House*

On motion of Rep. Huebert to adopt the conference committee report on **HB 2158**, Rep. Burgess offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion did not prevail.

The question then reverted back to the original motion of Rep. Huebert and the conference committee report was adopted.

On roll call, the vote was: Yeas 115; Nays 4; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Benlon, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Donohoe, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, 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, Rhoades, Roth, Ruiz, Sawyer, Schroeder, 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: Burgess, Dillmore, Faber, Knox.

Present but not voting: None.

Absent or not voting: Bethell, George, Grange, Hawk, Rardin, Schwab.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: I vote yea on the Conference Committee Report on **HB 2158**. Through the hearing process and debate on the provisions of this conference committee report, we want to make it clear our intent is not to functionally limit the use of social media by campaigns. In the case of twitter, SMS and social media that involve character limits, it could be very damaging to the use of those technologies if the disclosure provisions are strictly interpreted.—STEVE HUEBERT, TOM SAWYER

MR. SPEAKER: I vote nay on the Conference Committee Report on **HB 2158**. Although there are a number of good provisions in this report, I have concerns with the language in Section 8 Subparagraph (D). In the case of twitter, SMS and social media that involve character limits, it could be very damaging to the use of those technologies if the disclosure provisions are strictly interpreted.—MIKE BURGESS

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2214**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2214**, 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 19 through 43;

By striking all on pages 2 through 25;

On page 26, by striking all in lines 1 through 38 and inserting the following:

“New Section 1. The provisions of sections 1 through 5, and amendments thereto, shall be known and may be cited as the controlled insurance programs act.

New Sec. 2. As used in the controlled insurance programs act:

(a) “Commissioner” means the commissioner of insurance.

(b) “Completed operations liability” has the meaning ascribed thereto in K.S.A. 40-4101, and amendments thereto.

(c) The terms “construction,” “contract,” “contractor,” “owner,” “person” and “subcontractor” have the meanings ascribed thereto in K.S.A. 16-1802, and amendments thereto.

(d) “Controlled insurance program” means a program of liability or workers compensation insurance coverage, or both, that is established by an owner or contractor who contractually requires participation by contractors or subcontractors who are engaged in work required by a construction contract. Controlled insurance programs shall include, but not be limited to, coverage programs that are for a fixed term of coverage on a single construction site or project or multiple projects, and a consolidated or wrap-up insurance program as the term is used in subsection (b)(3) of K.S.A. 16-1803, and amendments thereto. A controlled insurance program subject to this act shall not include surety or builders risk.

(e) “Participant” means any contractor or subcontractor whose participation in a controlled insurance program is required by a construction contract.

(f) “Sponsoring participant” means the owner or contractor who establishes the controlled insurance program.

(g) “Substantial completion” shall have the meaning ascribed to it in K.S.A. 16-1902 and amendments thereto.

New Sec. 3. The commissioner by rules and regulations, shall require that:

(a) Controlled insurance programs shall:

(1) Establish a method for quarterly reporting of the participant’s respective claims details and loss information to that participant;

(2) provide that cancellation of any or all of the coverage provided to a participant prior to completion of work on the applicable project, shall require the owner or contractor who establishes a controlled insurance program to either replace the insurance or pay the subcontractor’s cost to do so;

(3) not charge enrolled participants who are not the sponsoring participants, a deductible in excess of \$2,500 per occurrence or a per claim assessment by the sponsor;

(4) keep self-insured retentions fully funded or collateralized by the owner or contractor establishing the controlled insurance program. This paragraph shall not apply to deductible programs;

(5) disclose specific requirements for safety or equipment prior to accepting bids from contractors and subcontractors on a construction project; and

(6) allow monetary fines for alleged safety violations to be assessed only by government agencies.

(b) If a controlled insurance program includes general liability coverage for the participants, then:

(1) Coverage for completed operations liability shall not, after substantial completion of a construction project, be canceled, lapse or expire before the limitation on actions has expired as established by subsection (b) of K.S.A. 60-513, and amendments thereto, but in no case greater than 10 years, and if another carrier takes responsibility for completed operations liability coverage, any and all prior completed operation liability carriers will be released from completed operations liability unless specified otherwise in subsequent policies;

(2) general liability coverage shall not be required of project participants except for liabilities not arising on the site or sites of the construction project. Any coverage maintained by the participants shall cover liabilities not arising on the site or sites of the construction project;

(3) the general liability coverage provided to participants shall provide for severability of interest, except with respect to limits of liability, so that participants shall be treated as if separately covered under the policy;

(4) participants shall be given the same shared limits of liability coverage as applies to the sponsoring participant under the controlled insurance program; and

(5) participants shall not be required to waive rights of recovery for claims covered by the controlled insurance program against another participant in the controlled insurance program covered by general liability insurance provided by the controlled insurance program.

(c) If a controlled insurance program includes coverage for the workers compensation liabilities of the participants, then:

(1) Workers compensation coverage shall include all workers compensation for which payroll attributable to the contractual agreement has been reported and the premiums collected covering all services performed incidental to, arising out of or emanating from the construction site or sites and the coming or going to or from the site or sites; and

(2) participants shall not be required to provide employment to a worker who has been injured on the job unless:

(A) The worker's treating health care provider certifies that the worker is fit to perform the participant's work on the job site consistent with the treating physician's limitations; and

(B) the employer has the pre-injury job or modified work available.

Nothing in this subsection or any rules and regulations adopted pursuant to the controlled insurance program act shall affect any rights, remedies or duties under the workers compensation act or any other state or federal employment law.

New Sec. 4. In addition to such other rules and regulations adopted pursuant to this act, the commissioner is hereby authorized to adopt such rules and regulations relating to controlled insurance programs as may be necessary to carry out the provisions of the controlled insurance programs act.

New Sec. 5. The commissioner shall adopt all rules and regulations required by this act by January 1, 2010.

Sec. 6. K.S.A. 16-1803 is hereby amended to read as follows: 16-1803. (a) Subject to the provisions of subsections (b), (c), (d), (e), (f), (g) and (h) and K.S.A. 16-1804 and 16-1805, and amendments thereto, all persons who enter into a contract for private construction after the effective date of this act, shall make all payments pursuant to the terms of the contract.

(b) The following provisions in a contract for private construction shall be against public policy and shall be void and unenforceable:

(1) A provision that purports to waive, release or extinguish the right to resolve disputes through litigation in court or substantive or procedural rights in connection with such litigation except that a contract may require binding arbitration as a substitute for litigation or require non-binding alternative dispute resolution as a prerequisite to litigation;

(2) a provision that purports to waive, release or extinguish rights provided by article 11 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, except that a contract may require a contractor or subcontractor to provide a waiver or release of such rights as a condition for payment, but only to the extent of the amount of payment received; and

(3) a provision that purports to waive, release or extinguish rights of subrogation for losses or claims covered or paid by liability or workers compensation insurance except that a contract may require waiver of subrogation for losses or claims paid by a consolidated or wrap-up insurance program, owners and contractors protective liability insurance, or project management protective liability insurance, *unless otherwise prohibited under subsection (b)(5) of section 3, and amendments thereto.*

(c) Any provision in a contract for private construction providing that a payment from a contractor or subcontractor to a subcontractor is contingent or conditioned upon receipt of a payment from any other private party, including a private owner, is no defense to a claim to enforce a mechanic's lien or bond to secure payment of claims pursuant to the provisions of article 11 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(d) All contracts for private construction shall provide that payment of amounts due a contractor from an owner, except retainage, shall be made within 30 days after the owner receives a timely, properly completed, undisputed request for payment.

(e) If the owner fails to pay a contractor within 30 days following receipt of a timely, properly completed, undisputed request for payment, the owner shall pay interest to the contractor beginning on the thirty-first day after receipt of the request for payment, computed at the rate of 18% per annum on the undisputed amount.

(f) A contractor shall pay its subcontractors any amounts due within seven business days of receipt of payment from the owner, including payment of retainage, if retainage is released by the owner, if the subcontractor has provided a timely, properly completed and undisputed request for payment to the contractor.

(g) If the contractor fails to pay a subcontractor within seven business days, the contractor shall pay interest to the subcontractor beginning on the eighth business day after receipt of payment by the contractor, computed at the rate of 18% per annum on the undisputed amount.

(h) The provisions of subsections (f) and (g) shall apply to all payments from subcontractors to their subcontractors.

Sec. 7. K.S.A. 2008 Supp. 40-2,105 is hereby amended to read as follows: 40-2,105. (a) On or after the effective date of this act, every insurer which issues any individual *policy of accident and sickness insurance* or group policy of accident and sickness insurance ~~providing to a small employer as defined in K.S.A. 40-2209d, and amendments thereto, which provides~~ medical, surgical or hospital expense coverage for other than specific diseases or accidents only and which provides for reimbursement or indemnity for services rendered to a person covered by such policy in a medical care facility, must provide for reimbursement or indemnity under such individual policy or under such *small employer* group policy, except as provided in subsection (d), which shall be limited to not less than ~~30~~ 45 days per year ~~when such person is confined for treatment of alcoholism, drug abuse or nervous or mental conditions for in-patient treatment of mental illness~~ in a medical care facility licensed under the provisions of K.S.A. 65-429, and amendments thereto, ~~and not less than 30 days per year when such person is confined for treatment of alcoholism, drug abuse or substance use disorders~~ in a treatment facility for alcoholics licensed under the provisions of K.S.A. 65-4014, and amendments thereto, a treatment facility for drug abusers licensed under the provisions of K.S.A. 65-4605, and amendments thereto, a community mental health center or clinic licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, or a psychiatric hospital licensed under the provisions of K.S.A. 75-3307b, and amendments thereto. Such individual policy or such *small employer* group policy shall also provide for reimbursement or indemnity, except as provided in subsection (d), of the costs of treatment of such person for *mental illness*, alcoholism, drug abuse and ~~nervous or mental conditions~~ *substance use disorders subject to the same deductibles, copayments, coinsurance, out-of-pocket expenses and treatment limitations as apply to other covered services*, limited to not less than ~~100% of the first \$100, 80% of the next \$100 and 50% of the next \$1,640 in any year and limited to not less than \$7,500~~ \$15,000 in such person's lifetime, ~~with no annual limits~~, in the facilities enumerated when ~~confinement in-patient treatment~~ is not necessary for the treatment or by a physician licensed or psychologist licensed to practice under the laws of the state of Kansas.

(b) For the purposes of this section "~~nervous or mental conditions~~" "*mental illness, alcoholism, drug abuse or substance use*" means disorders specified in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association ~~but shall not include conditions:~~

~~(1) Not attributable to a mental disorder that are a focus of attention or treatment (DSM-IV, 1994); and~~

~~(2) defined as a mental illness in K.S.A. 2008 Supp. 40-2,105a and amendments thereto.~~

(c) The provisions of this section shall be applicable to health maintenance organizations organized under article 32 of chapter 40 of the Kansas Statutes Annotated.

(d) There shall be no coverage under the provisions of this section for any assessment against any person required by a diversion agreement or by order of a court to attend an alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments



thereto, or for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.

(e) The provisions of this section shall not apply to any medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation.

~~(f) The provisions of this section shall be applicable to the Kansas state employees health care benefits program developed and provided by the Kansas state employees health care commission.~~

~~(g) The outpatient coverage provisions of this section shall not apply to a high deductible health plan as defined in federal law if such plan is purchased in connection with a medical or health savings account pursuant to that federal law, regardless of the effective date of the insurance policy. After the amount of eligible deductible expenses have been paid by the insured, the outpatient costs of treatment of the insured for alcoholism, drug abuse and nervous or mental conditions shall be paid on the same level they are provided for a medical condition, subject to the yearly and lifetime maximums provided in subsection (a).~~

~~(f) Treatment limitations include limits on the frequency of treatment, number of visits, days of coverage or other similar limits on the scope or duration of treatment.~~

~~(g) Utilization review for mental illness shall be consistent with provisions in K.S.A. 40-22a01 through 40-22a12, and amendments thereto.~~

Sec. 8. K.S.A. 2008 Supp. 40-2,105a is hereby amended to read as follows: 40-2,105a. (a) (1) Any group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides *medical, surgical or hospital expense coverage for mental health benefits and which is delivered, issued for delivery, amended or renewed on or after January 1, 2002*, shall include, coverage for diagnosis and treatment of mental illnesses. ~~Except as provided in paragraph (2); and alcoholism, drug abuse or other substance use disorders. Reimbursement or indemnity shall be provided for treatment in a medical care facility licensed under the provisions of K.S.A. 65-429, and amendments thereto, treatment facilities licensed under K.S.A. 65-4605, and amendments thereto, a community mental health center or clinic licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, a psychiatric hospital licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, or by a physician or psychologist licensed to practice under the laws of the state of Kansas.~~ Such coverage shall be subject to the same deductibles, copayments, coinsurance, out-of-pocket expenses, treatment limitations and other limitations as apply to other covered services.

(2) The coverage required by paragraph (1) shall include annual coverage for both 45 days of in-patient care for mental illness and for 45 visits for out-patient care for mental illness ~~shall include treatment for in-patient care and out-patient care for mental illness, alcoholism, drug abuse or substance use disorders.~~

(b) ~~Notwithstanding the provisions of K.S.A. 40-2249a, and amendments thereto, the state insurance department shall deliver to the president of the senate and to the speaker of the house of representatives on or before January 1, 2003, a report indicating the impact of providing mental illness benefits required by this act. Such report shall include information regarding access to and usage of such services and the cost of such services.~~

~~(c) For the purposes of this section, "mental illness, alcoholism, drug abuse or substance use" means the following: Schizophrenia, schizoaffective disorder, schizophreniform disorder, brief reactive psychosis, paranoid or delusional disorder, atypical psychosis, major affective disorders (bipolar and major depression), cyclothymic and dysthymic disorders, obsessive compulsive disorder, panic disorder, pervasive developmental disorder, including autism, attention deficit disorder and attention deficit hyperactive any disorder as such terms are defined in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association but shall not include conditions not attributable to a mental disorder that are a focus of attention or treatment.~~

~~(c) The provisions of this section shall be applicable to health maintenance organizations organized under article 32 of chapter 40 of the Kansas Statutes Annotated.~~

~~(d) The provisions of this section shall not apply to any small employer group policy, as defined under K.S.A. 40-2209, and amendments thereto, providing medical, surgical or~~

*hospital expense coverage or to any medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation.*

~~(f)~~ (e) The provisions of this section shall be applicable to the Kansas state employees health care benefits program and municipal funded pools.

~~(g)~~ (f) The provisions of this section shall not apply to any policy or certificate which provides coverage for any specified disease, specified accident or accident only coverage, credit, dental, disability income, hospital indemnity, long-term care insurance as defined by K.S.A. 40-2227, and amendments thereto, vision care or any other limited supplemental benefit nor to any medicare supplement policy of insurance as defined by the commissioner of insurance by rule and regulation, any coverage issued as a supplement to liability insurance, workers compensation or similar insurance, automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

~~(h) From and after January 1, 2002, the provisions of K.S.A. 40-2,105, and amendments thereto, shall not apply to mental illnesses as defined in this act.~~

~~(i) There shall be no coverage under this section for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.~~

~~(g) Treatment limitations include limits on the frequency of treatment, number of visits, days of coverage or other similar limits on the scope or duration of treatment.~~

~~(h) There shall be no coverage under the provisions of this section for any assessment against any person required by a diversion agreement or by order of a court to attend an alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, or for evaluations and diagnostic tests ordered or requested in connection with criminal actions, divorce, child custody or child visitation proceedings.~~

~~(i) Utilization review for mental illness shall be consistent with provisions in K.S.A. 40-22a01 through 40-22a12, and amendments thereto.~~

Sec. 9. On and after November 1, 2009, K.S.A. 2008 Supp. 40-2258 is hereby amended to read as follows: 40-2258. (a) An accident and sickness insurer which offers coverage through a group policy or certificate of coverage providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209, and amendments thereto, which includes mental ~~health~~ illness or alcoholism, drug abuse or other substance use disorder benefits shall be subject to the following requirements:

(1) If the policy does not include an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits, the policy may not impose any aggregate lifetime limit on mental ~~health~~ illness or alcoholism, drug abuse or other substance use disorder benefits;

(2) if the policy includes an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits the plan shall either: (A) Apply the applicable lifetime limit both to the hospital, medical and surgical expense benefits to which it otherwise would apply and to mental ~~health~~ illness or alcoholism, drug abuse or other substance use disorder benefits and not distinguished in the application of such limit between such hospital, medical and surgical expense benefits and mental ~~health~~ illness or alcoholism, drug abuse or other substance use disorder benefits; or (B) not include any aggregate lifetime limit on mental ~~health~~ illness or alcoholism, drug abuse or other substance use disorder benefits that is less than the applicable lifetime limit on hospital, medical and surgical expense benefits;

(3) if the policy does not include an annual limit on substantially all hospital, medical and surgical expense benefits, the plan or coverage may not impose any annual limit on mental ~~health~~ illness or alcoholism, drug abuse or other substance use disorder benefits; and

(4) if the policy includes an annual limit on substantially all hospital, medical and surgical expense benefits the policy shall either: (A) Apply the applicable annual limit both to hospital, medical and surgical expense benefits to which it otherwise would apply and to mental ~~health~~ illness or alcoholism, drug abuse or other substance use disorder benefits and not distinguish in the application of such limit between such hospital, medical and surgical expense benefits and mental ~~health~~ illness or alcoholism, drug abuse or other substance use disorder benefits; or (B) not include any annual limit on mental ~~health~~ illness or alcoholism,

*drug abuse or other substance use disorder* benefits that is less than the applicable annual limit.

(b) If the group policy providing hospital, medical or surgical expense benefits is not otherwise covered by subsection (a) and either does not apply a lifetime or annual benefit or applies different lifetime or annual benefits to different categories of hospital, medical and surgical expense benefits, the commissioner may adopt rules and regulations under which subsections (a)(2) and (a)(4) are applied to such policies with respect to mental ~~health~~ *illness or alcoholism, drug abuse or other substance use disorder* benefits by substituting for the applicable lifetime or annual limits an average limit that is computed taking into account the weighted average of the lifetime or annual limits applicable to such categories.

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

(1) Requiring an accident and sickness policy to offer mental ~~health~~ *illness or alcoholism, drug abuse or other substance use disorder* benefits except as otherwise required by K.S.A. ~~40-2-105~~ *40-2,105a*, and amendments thereto; or

(2) affecting any terms and conditions of a policy which does include mental ~~health~~ *illness or alcoholism, drug abuse or other substance use disorder* benefits including provisions regarding cost sharing, limits on the number of visits or days of coverage, requirements relating to medical necessity, requirements relating to the amount, duration or scope of mental ~~health~~ *illness or alcoholism, drug abuse or other substance use disorder* benefits under the plan or coverage, except as specifically provided in subsection (a).

(d) This section shall not apply to any group accident and health insurance policy which is sold to a small employer as defined in K.S.A. 40-2209, and amendments thereto.

(e) This section shall not apply with respect to a group policy providing hospital, medical or surgical expense benefits if the application of this section will result in an increase in the cost under the plan of at least ~~1%~~ *2% in the case of the first plan year in which this section is applied and 1% in the case of each subsequent plan year. Determinations as to increases in actual costs under a plan shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American academy of actuaries. All such determinations shall be in a written report prepared by the actuary.*

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent two or more benefit package options under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) "Aggregate lifetime limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

(2) "annual limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the policy with respect to an eligible employee, member or dependent;

(3) "hospital, medical or surgical expense benefits" means benefits with respect to hospital, medical or surgical services, as defined under the terms of the policy, ~~but does not include mental health benefits;~~

(4) "mental ~~health~~ *illness* benefits" means benefits with respect to mental health services, as defined under the terms of the policy, ~~but does not include benefits with respect to treatment of substance abuse or chemical dependency;~~

(5) "*alcoholism, drug abuse or substance use disorder benefits*" means benefits with respect to services for the treatment of alcoholism, drug abuse or other substance use disorders, as defined under the terms of the policy;

(6) "*mental illness, alcoholism, drug abuse or substance use*" means disorders specified in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association.

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998. ~~This section shall not apply to benefits for services furnished on or after December 31, 2008.~~

(i) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.”;

And by renumbering sections accordingly;

On page 36, in line 39, by striking “insurance carrier” and inserting “employer”;

On page 42, in line 41, by striking “insurance carrier” and inserting “employer”;

On page 45, by striking all in lines 22 through 24 and inserting the following:

“Sec. 12. K.S.A. 16-1803 and K.S.A. 2008 Supp. 40-2,105, 40-2,105a, 40-2209 and 40-3209 are hereby repealed.”;

On page 1, in the title, by striking all in lines 12 through 16 and inserting the following: “AN ACT relating to insurance; concerning the regulation thereof; amending K.S.A. 16-1803 and K.S.A. 2008 Supp. 40-2,105, 40-2,105a, 40-2209, 40-2258 and 40-3209 and repealing the existing sections.”;

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

RUTH TEICHMAN

KARIN BROWNLEE

CHRIS STEINEGER

*Conferees on part of Senate*

CLARK SHULTZ

DALE SWENSON

*Conferees on part of House*

On motion of Rep. Peck, the conference committee report on **HB 2214** was adopted.

On roll call, the vote was: Yeas 115; Nays 4; Present but not voting: 0; Absent or not voting: 6.

Yeas: Aurand, Ballard, Benlon, 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, Goico, Gordon, Goyle, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, 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, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rhoades, Roth, Ruiz, Sawyer, 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: Knox, Neufeld, Peck, Schroeder.

Present but not voting: None.

Absent or not voting: Bethell, George, Grange, Hawk, Rardin, Schwab.

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

Speaker O’Neal called the House to order.

#### MESSAGES FROM THE SENATE

The Senate adopts conference committee report on **SB 33**.

Also, the President announced the appointment of Senator Francisco as a member of the conference committee on **S. Sub. for HB 2115** to replace Senator Lee.

Also, the Senate adopts conference committee report on **SB 41**.

The Senate concurs in House amendments to **SB 336**.

#### CONSIDERATION OF VETOED BILLS

The Governor’s objection to **S. Sub. for Sub. HB 2014** having been read April 29 (see HJ, pp. 660-661), the time arrived for reconsideration of **S. Sub. for Sub. HB 2014**, An act concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and

K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the existing sections; also repealing K.S.A. 19-101m.

There was no motion to reconsider. The Chair ruled the bill had been reconsidered and the veto sustained.

#### CONSIDERATION OF VETOED BILLS

The Governor's objection to **HB 2121** having been read April 29 (see HJ, pp. 663-664), the time arrived for reconsideration of **HB 2121**, An act concerning agriculture; relating to pesticide and fertilizer programs; fees; fees for milk and dairy products; amending K.S.A. 2-2203, 2-2205, 2-2206, 2-2207, 2-2209, 2-2214, 2-2440a, 2-2440c, 2-2440e, 2-2446, 2-2449, 2-2450, 2-2454, 2-2455, 2-2470 and 2-2471 and K.S.A. 2008 Supp. 2-1205, 2-2202, 2-2204, 2-2438a, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2469, 2-2905, 2-2906, 2-3304, 2-3306, 2-3309, 65-778 and 65-781 and repealing the existing sections; also repealing K.S.A. 2-1211 and 2-2466.

There was no motion to reconsider. The Chair ruled the bill had been reconsidered and the veto sustained.

#### CONSIDERATION OF VETOED BILLS

The Governor's objection to **HB 2172** having been read April 29 (see HJ, p. 664), the time arrived for reconsideration of **HB 2172**, An act concerning sales taxation; relating to cash rebates on sales or leases of new motor vehicles; exemptions amending K.S.A. 2008 Supp. 79-3602, 79-3603 and 79-3606 and repealing the existing sections.

There was no motion to reconsider. The Chair ruled the bill had been reconsidered and the veto sustained.

#### CONSIDERATION OF VETOED BILLS

The Governor's line item objections to **S. Sub. for HB 2354** having been read April 29 (see HJ, pp. 661-663), the time arrived for reconsideration of **S. Sub. for HB 2354**, An act making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012 and June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending section 3 of chapter 159 of the 2008 Session Laws of Kansas, section 95 of 2009 House Substitute for Substitute for Senate Bill No. 23 and K.S.A. 2008 Supp. 2-223, 12-5256, 55-193, 75-6702, 76-7,107, 79-2959, 79-2964, 79-2978, as amended by section 88 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-2979, as amended by section 89 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-3425i, 79-4801 and 82a-953a and repealing the existing sections.

There was no motion to reconsider the line items. The Chair ruled the line items had been reconsidered and the veto sustained.

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

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Speaker O'Neal called the House to order.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 84**.

#### 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, extraordinary 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.

(e) The provisions of this section shall expire on June 30, 2012.

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

On motion of Rep. Aurand, the conference committee report on **SB 84** was adopted.

On roll call, the vote was: Yeas 112; Nays 6; Present but not voting: 0; Absent or not voting: 7.

Yeas: Aurand, Ballard, Benlon, Bowers, Brookens, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crum, Davis, DeGraaf, Dillmore, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, Goico, Gordon, Goyle, Grant, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, 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, Pauls, Peterson, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rhoades, Ruiz, Sawyer, Schroeder, 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: A. Brown, Crow, Donohoe, Kelley, Patton, Peck.

Present but not voting: None.

Absent or not voting: Bethell, George, Grange, Hawk, Rardin, Roth, Schwab.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **H. Sub. for SB 168**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 168**, 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. 168, as follows:

On page 1, in line 25, by striking “Among” and inserting “Except as otherwise provided by this section, among”; in line 36, after the period, by inserting: “The priority of payment prescribed by this section shall be subject to all applicable requirements, limitations or

restrictions under federal or state law, including, but not limited to, the federal American recovery and reinvestment act of 2009, and shall be subject to all applicable requirements, limitations or restrictions prescribed by contracts and other agreements authorized by law, including, but not limited to, debt service payments pursuant to contractual bond obligations, as determined by the secretary of administration, after conferring with the director of the budget.”;

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

JASON WATKINS  
KASHA KELLEY  
TOM BURROUGHS  
*Conferees on part of House*

JAY SCOTT EMLER  
JOHN VRATIL  
ANTHONY HENSLEY  
*Conferees on part of Senate*

On motion of Rep. Watkins, the conference committee report on **H. Sub. for SB 168** was adopted.

On roll call, the vote was: Yeas 118; Nays 0; Present but not voting: 0; Absent or not voting: 7.

Yeas: Aurand, Ballard, Benlon, 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, Goico, Gordon, Goyle, Grant, 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, Rhoades, Ruiz, Sawyer, Schroeder, 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: Bethell, George, Grange, Hawk, Rardin, Roth, Schwab.

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

Speaker O'Neal called the House to order.

#### MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **SB 84**.

The Senate adopts conference committee report on **H. Sub. for SB 168**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2072**, 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. 2072, as follows:

On page 2, in line 10, by striking “2009” and inserting “2006”; also in line 10, before “em-” by inserting “first”; in line 14, by striking “March” and inserting “April”; in line 25, by striking all after “paid”; in line 26, by striking “thereafter,”; in line 27, by striking “\$25,000” and inserting “\$20,000”; in line 30, by striking “March” and inserting “April”;

On page 3, in line 9, by striking “March” and inserting “April”; in line 32, by striking all after “paid”; in line 33, by striking all before “an”; in line 35, by striking “\$25,000” and inserting “\$20,000”;

On page 5, in line 11, after "(l)" by inserting "of K.S.A. 74-4914, and amendments thereto,"; in line 12, after "(4)" by inserting "of K.S.A. 74-4914, and amendments thereto,"; in line 14, by striking "and K.A.R."; in line 15, by striking "91-1-203"; also in line 15, after "thereto" by inserting ", or other provision of law"; in line 16, after "(4)" by inserting "of K.S.A. 74-4914, and amendments thereto,"; in line 20, after "participation" by inserting "or employed by a third-party entity who contracts services with a school district to fill a position as described in this subsection"; in line 23, by striking all after "plus"; by striking all in lines 24 and 25; in line 26, by striking all before "Nothing" and inserting "8%. The provisions of this subsection shall not apply to retirants employed as substitute teachers. The provisions of subsection (5) of K.S.A. 74-4914, and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection.";

On page 7, in line 38, by striking all after "(10)"; by striking all in lines 39 through 43;

On page 8, by striking all in lines 1 through 4; in line 5, by striking "(11)"; in line 10, by striking "(12)" and inserting "(11)"; in line 24, by striking "(13)" and inserting "(12)"; in line 26, by striking "(14)" and inserting "(13)"; in line 31, by striking "(15)" and inserting "(14)"; in line 35, by striking "(16)" and inserting "(15)"; by striking all in lines 39 through 43;

By striking all on page 9;

On page 10, by striking all in lines 1 through 19 and inserting the following:

"New Sec. 4. Any member of the Kansas public employees retirement system may purchase up to two years of participating service credit for service as approved, directly related journeyman experience above the apprenticeship as required by K.A.R. 91-1-39 prior to the revocation of such regulation on June 30, 2003, for day trade, personal service and public service teachers which commenced on or after January 1, 1962. Such purchase of participating service credit shall be made in accordance with the provisions of K.S.A. 74-49,123, and amendments thereto. The benefit for each such period of service purchased by the member shall be equal to 1.75% of the final average salary of any such member. Such member may purchase such participating service credit by submitting proof of such service acceptable to the board of trustees and by making application therefor prior to the date of retirement of such member for such purchase and to have such member's employee contributions deducted from such member's compensation at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919, and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following the date upon which such member made application for such purchase and shall remain in effect until all of the full quarters of such service have been purchased. In lieu of the deduction of employee contributions as provided in this section, any such member may purchase such participating service credit by means of a single lump-sum payment in an amount equal to the then present value of benefits being purchased as determined by the actuary using the member's attained age at the time of purchase, annual compensation at the time of purchase and the actuarial assumptions and tables currently in use by the system. The lump-sum payment shall be made immediately upon being notified of the amount due under this purchase method. The provisions of this section shall be part of and supplemental to the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 5. K.S.A. 2008 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in subsection (3)(a) of K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. The board shall determine the actuarial cost method to be used in annual actuarial valuations, to determine the employer contribution rates that shall be certified by the board. Such certified rate of contribution, amortization methods and periods and actuarial cost method shall be based on the standards set forth in subsection (3)(a) of

K.S.A. 74-4908 and amendments thereto and shall not be based on any other purpose outside of the needs of the system.

(b) (i) For employers affiliating on and after January 1, 1999, upon the basis of an annual actuarial valuation and appraisal of the system conducted in the manner provided for in K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year to each such employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such employer to pay all of the liabilities which shall accrue under the system from and after the entry date as determined by the board, upon recommendation of the actuary. Such rate shall be termed the employer's participating service contribution and shall be uniform for all participating employers. Such additional liability shall be amortized as determined by the board. For all participating employers described in this section, the board shall determine the actuarial cost method to be used in annual actuarial valuations to determine the employer contribution rates that shall be certified by the board.

(ii) The board shall determine for each such employer separately an amount sufficient to amortize all liabilities for prior service costs which shall have accrued at the time of entry into the system. On the basis of such determination the board shall annually certify to each such employer separately an actuarially determined estimate of the rate of contribution which shall be required to be paid by that employer to pay all of the liabilities for such prior service costs. Such rate shall be termed the employer's prior service contribution.

(2) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services the sum required to satisfy the state's obligation under this act as certified by the board and shall present the same to the legislature for allowance and appropriation.

(3) Each other participating employer shall appropriate and pay to the system a sum sufficient to satisfy the obligation under this act as certified by the board.

(4) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which such contribution is made is paid from or from any other funds available to it for such purpose. Each political subdivision, other than an instrumentality of the state, which is by law authorized to levy taxes for other purposes, may levy annually at the time of its levy of taxes, a tax which may be in addition to all other taxes authorized by law for the purpose of making its contributions under this act and, in the case of cities and counties, to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774 and amendments thereto by cities located in the county, which tax, together with any other fund available, shall be sufficient to enable it to make such contribution. In lieu of levying the tax authorized in this subsection, any taxing subdivision may pay such costs from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102 and amendments thereto. Each participating employer which is not by law authorized to levy taxes as described above, but which prepares a budget for its expenses for the ensuing year and presents the same to a governing body which is authorized by law to levy taxes as described above, may include in its budget an amount sufficient to make its contributions under this act which may be in addition to all other taxes authorized by law. Such governing body to which the budget is submitted for approval, may levy a tax sufficient to allow the participating employer to make its contributions under this act, which tax, together with any other fund available, shall be sufficient to enable the participating employer to make the contributions required by this act.

(5) (a) The rate of contribution certified to a participating employer as provided in this section shall apply during the fiscal year of the participating employer which begins in the second calendar year following the year of the actuarial valuation.

(b) (i) Except as specifically provided in this section, for fiscal years commencing in calendar year 1996 and in each subsequent calendar year, the rate of contribution certified to the state of Kansas shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than 0.2% of the amount of compensation upon which members contribute during the period.

(ii) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to the state of Kansas and to the participating employers under K.S.A. 74-4931, and amendments thereto shall in no event

exceed the state's contribution rate for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar year 2005, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (C) for the fiscal year commencing in calendar year 2007 and in each subsequent calendar year, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year.

(iii) Except as specifically provided in this section, for fiscal years commencing in calendar year 1997 and in each subsequent calendar year, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.15% of the amount of compensation upon which members contribute during the period.

(iv) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed the contribution rate for such employers for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2007, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (C) for the fiscal year commencing in calendar year 2008 and in each subsequent calendar year, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year.

(v) As part of the annual actuarial valuation, there shall be a separate employer rate of contribution calculated for the state of Kansas, a separate employer rate of contribution calculated for participating employers under K.S.A. 74-4931 and amendments thereto, a combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, and a separate employer rate of contribution calculated for all other participating employers.

(vi) There shall be a ~~separate~~ *combined* employer rate of contribution certified to the state of Kansas. ~~There shall be a separate employer rate of contribution certified to and~~ participating employers under K.S.A. 74-4931, and amendments thereto. There shall be a separate employer rate of contribution certified to all other participating employers.

(vii) If the combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, is greater than the separate employer rate of contribution for the state of Kansas, the difference in the two rates applied to the actual payroll of the state of Kansas for the applicable fiscal year shall be calculated. This amount shall be certified by the board ~~as additional employer contributions for the participating employers under K.S.A. 74-4931, and amendments thereto, to the division of budget and governor who shall include in the budget each year thereafter~~ provisions for the transfer from the state general fund of sufficient sums to satisfy this obligation. This amount shall be distributed through the same procedure as followed for the employer contribution payments under K.S.A. 74-4939 and K.S.A. 74-4939a, and amendments thereto, and then remitted by the participating employers to the Kansas public employees retirement system for deposit as additional employer contributions to the retirement benefit accumulation reserve for the participating employers under K.S.A. 74-4931, and amendments thereto.

(6) The actuarial cost of any legislation enacted in the 1994 session of the Kansas legislature will be included in the June 30, 1994, actuarial valuation in determining contribution rates for participating employers.

(7) The actuarial cost of the provisions of K.S.A. 74-4950i will be included in the June 30, 1998, actuarial valuation in determining contribution rates for participating employers. The actuarial accrued liability incurred for the provisions of K.S.A. 74-4950i shall be amortized over 15 years.

(8) Except as otherwise provided by law, the actuarial cost of any legislation enacted by the Kansas legislature, except the actuarial cost of K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the employer contribution rates certified for the employer contribution rate in the fiscal year immediately following such enactment.

(9) Notwithstanding the provisions of subsection (8), the actuarial cost of the provisions of K.S.A. 74-49,109 et seq., and amendments thereto shall be first reflected in employer contribution rates effective with the first day of the first payroll period for the fiscal year 2005. The actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109 et seq., and amendments thereto shall be amortized over 10 years.

(10) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2008 Supp. 74-49,114b, and amendments thereto, for retirees other than local retirees as described in subsection (11) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2007.

(11) The actuarial accrued liability incurred for the provisions of K.S.A. 2008 Supp. 74-49,114b, and amendments thereto, for the KPERS local group and retirees who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(12) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2008 Supp. 74-49,114c, and amendments thereto, for retirees other than local retirees as described in subsection (13) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2008.

(13) The actuarial accrued liability incurred for the provisions of K.S.A. 2008 Supp. 74-49,114c, and amendments thereto, for the KPERS local group and retirees who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(14) The board with the advice of the actuary may fix the contribution rates for participating employers joining the system after one year from the first entry date or for employers who exercise the option contained in K.S.A. 74-4912 and amendments thereto at rates different from the rate fixed for employers joining within one year of the first entry date.

(15) For employers affiliating on and after January 1, 1999, the rates of contribution certified to the participating employer as provided in this section shall apply during the fiscal year immediately following such certification, but the rate of contribution during the first year following the employer's entry date shall be equal to 7% of the amount of compensation on which members contribute during the year. Any amount of such first year's contribution which may be in excess of the necessary current service contribution shall be credited by the board to the respective employer's prior service liability.

(16) Employer contributions shall in no way be limited by any other act which now or in the future establishes or limits the compensation of any member.

(17) Notwithstanding any provision of law to the contrary, each participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer contributions to the executive director for credit to the Kansas public employees retirement fund within three days after the end of the period covered by the remittance by electronic funds transfer. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection shall be subject to interest at the rate established for interest on judgments under subsection (a) of K.S.A. 16-204 and amendments thereto. At the request of the board, delinquent payments which are due or interest owed on such payments, or both, may be deducted from any other moneys payable to such employer by any department or agency of the state.;

And by renumbering sections accordingly;

Also on page 10, in line 20, after "74-4914" by inserting ", 74-4920";

On page 1, in the title, in line 11, by striking "membership election,;" in line 12, by striking all before "amending" and by inserting "purchase of service credit; state and school employer contribution rate,;" in line 13, after "74-4914" by inserting ", 74-4920";

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

JOHN VRATIL  
CAROLYN MCGINN  
LAURA KELLY  
*Conferees on part of Senate*

SHARON SCHWARTZ  
CLARK SHULTZ  
GERALDINE FLAHARTY  
*Conferees on part of House*

On motion of Rep. Schwartz, the conference committee report on **S. Sub. for HB 2072** was adopted.

On roll call, the vote was: Yeas 116; Nays 0; Present but not voting: 0; Absent or not voting: 9.

Yeas: Aurand, Ballard, Benlon, 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, Goico, Gordon, Goyle, Grant, 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, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rhoades, Ruiz, Sawyer, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: None.

Present but not voting: None.

Absent or not voting: Bethell, George, Grange, Hawk, Peterson, Rardin, Roth, Schwab, Whitham.

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

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Speaker O'Neal called the House to order.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **H. Sub. for SB 51**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 51**, 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. 51, as follows:

On page 2, in line 13, by striking "three" and inserting "four"; in lines 29, 37 and 39 by striking "1½" and inserting "two"; in line 34, by striking "shall" and inserting "may"; also in line 34, by striking "land-"; in line 35, by striking "owner" and inserting "prevailing party";

On page 3, in line 19, by striking "three" and inserting "four";

On page 4, in line 17, by striking "shall" and inserting "may"; in line 18, by striking "landowner" and inserting "prevailing party";

On page 5, by striking lines 13 through 18; after line 22, by inserting the following:

"(j) "Municipal services" include police, fire, emergency medical services, park and recreation services, planning, zoning and code enforcement services, water, sewer, storm water drainage, gas, electric or other utility services, street and bridge maintenance and repair,

street light maintenance and repair, and any other municipal service that a city may provide to its residents.

(k) "Municipal infrastructure" includes the construction or reconstruction of municipal buildings, parks, roads, bridges, curbs, gutters, sidewalks, crosswalks, drainage works, water facilities, sewer facilities, storm water drainage facilities, gas, electric or other city utility facilities, parking facilities or other infrastructure facilities owned by the city and used to provide municipal services to its residents.";

On page 6, in line 21, by striking "21" and inserting "more than 65"; also in line 21, by striking "or more";

On page 8, by striking lines 28 through 43;

On page 9, by striking lines 10 through 43;

On page 10, by striking all in lines 1 through 14 and inserting the following:

"Sec. 6. K.S.A. 2008 Supp. 12-520 is hereby amended to read as follows: 12-520. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

(1) The land is platted, and some part of the land adjoins the city.

(2) The land is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.

(6) The tract is so situated that  $\frac{2}{3}$  of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A. 19-2753 et seq., and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.



(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

*(h) No city may utilize any provision of this section from and after July 1, 2009, to annex a narrow corridor of land to gain access to noncontiguous tracts of land. The corridor of land must have a tangible value and purpose other than for enhancing future annexations of land by the city.*

New Sec. 7. Any city which annexes an area of land under provisions of K.S.A. 12-520 through 12-521, and amendments thereto, shall spend all the proceeds from the ad valorem taxes levied against such land for a period of one year from the date of annexation to provide municipal infrastructure and municipal services, other than police and fire services, to such area. A report documenting the amount of money raised by ad valorem taxes in such area and the amount of money spent in such area shall be made available for public inspection in the city clerk's office.

New Sec. 8. Not less than 60 days before the effective date of any ordinance annexing land into the boundaries of any city:

(a) The city shall give written notice to any rural water district organized pursuant to K.S.A. 82a-612 et seq., and amendments thereto, in whose territory the land or any portion thereof is located of the city's intent to annex such land; and

(b) the notice shall contain the description of the land to be annexed and the city's plan for the provision of water service to the land being annexed.

New Sec. 9. Following annexation of rural water district territory by a city, the city and the district may contract for the district to provide water service to all or certain portions of the annexed area. If the agreement includes a provision for the payment of a franchise fee to the city, such agreement shall be subject to the provisions of K.S.A. 12-2001 et seq., and amendments thereto.

New Sec. 10. (a) Following annexation, the rural water district shall remain the water service provider to the annexed area unless the city gives written notice designating a different supplier. If the city designates a different supplier, the city shall purchase the property, facilities, improvements and going concern value of the facilities of the district located within the territory annexed by the city. If an agreement for the purchase of such property, facilities, improvements and going concern value of the facilities of the district annexed by the city is not executed within 90 days after delivery of the notice designating a different supplier, the city and the rural water district in good faith shall engage in mediation. Unless an agreement is executed, no change in water service provider shall occur and no appraisers shall be appointed until more than 120 days after delivery of the notice of intent to change the water supplier and the mediation has been terminated.

(b) If the district and the city are unable to reach agreement on the reasonable value for such property, facilities, improvements and going concern value of the facilities of the district, then the reasonable value shall be determined in the following manner:

(1) The district and the city shall each select one qualified appraiser and the two appraisers so selected shall then select a third appraiser for the purpose of conducting an appraisal to determine reasonable value of the property, facilities, improvements and going concern value of the facilities of the district annexed by the city. The appraisers shall consider all elements of value, employing any method of valuation the appraisers deem appropriate and shall specifically consider the following factors in determining reasonable value:

(A) Whether any property of the district is rendered useless or valueless to the district;

(B) the amount of damage to property remaining in the ownership of the district following annexation;

(C) impact on the existing indebtedness of the district and such district's ability to repay that debt;

(D) the value of the service facilities of the district located within the area in question;

(E) the amount of any expenditures for planning, design or construction of service facilities outside the incorporated or annexed area that are allocable to service to the area in question;

(F) the amount of the district's contractual obligations allocable to the area in question;  
 (G) any demonstrated impairment of service or increase of cost to consumers of the district remaining after the annexation and the impact on future revenues lost from existing customers;

(H) any necessary and reasonable legal expenses and professional fees;

(I) any factors relevant to maintaining the current financial integrity of the district;

(J) the average increase in the number of benefit units in the area annexed for the three years immediately preceding such annexation; and

(K) any other relevant factors as agreed to by the three appointed appraisers.

(2) The appraisers shall hear such evidence as the appraisers deem appropriate and shall make a written summary of findings and conclusions. The agreement or decision of at least two of the three appraisers shall be the fair market value presented to the city for payment and the district for acceptance.

(3) If either the district or the city is dissatisfied with the decision of the appraisers, then the district or the city may appeal within 30 days such award to the district court. Such appeal shall be heard de novo by the court without a jury.

(c) The compensation required by this section shall be paid to the district whether or not the city actually utilizes the facilities of the district for the delivery of water to property within the city and shall be paid at a time not later than 120 days following the date upon which the fair market value of the facilities are certified to the city and to the district, or at such later date as may be mutually agreed upon by the city and the district or as may be determined by the district court.

(d) In any event, the district may elect to retain facilities located within the city used for transmission of water, provided that the district use those facilities to continue to supply water service to benefit units outside the city. The district shall not receive compensation for facilities it elects to retain.

(e) Except as otherwise provided, nothing in this section shall be construed as limiting the authority of a city to select water service suppliers to areas within the city limits, or to limit the authority of a city to adopt and enforce regulations for the operation of a water service supplier, including, but not limited to, standards of water quality, classification of water customers, capacity of water system, water system connections to sanitary sewer systems, rates and billing practices and other regulations for protection of the public health, safety and welfare.

(f) In the event that a district will no longer be the water supplier to land as a result of annexation and notice pursuant to subsection (a), the district shall continue to provide such service until the city gives notice of its assumption of responsibility for service, designating the date that the service shall transfer to the supplier designated by the city. The district and the city shall cooperate as necessary to minimize the inconvenience to water customers as a result of the transfer. The city shall give written notice to each customer of the district for whom water service is being transferred specifying the name and address of the new supplier, the effective date of the transfer, the reason for the transfer and a schedule of applicable rates. The district shall not discontinue or limit service to customers who were supplied water by the district at the time of annexation during the period of negotiations unless such customer has violated district bylaws or rules and regulations.

(g) Following the transfer of water service from the district to the city, the annexed land, or amount of such land for which water service has been transferred to the city, shall be deleted from the territory of the district and all benefit units attached to land located therein shall be canceled without compensation. Notice of such deletion of territory shall be provided to the county clerk and the chief engineer of the division of water resources of the department of agriculture.

Sec. 11. K.S.A. 2008 Supp. 82a-612 is hereby amended to read as follows: 82a-612. As used in this act, unless the context clearly requires otherwise:

(a) "District" means a rural water district organized pursuant to this act;

(b) "board" means the governing body of a district;

(c) the terms "board of county commissioners" and "county clerk" shall mean, respectively, the board of county commissioners and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;

(d) “participating member” means an individual, firm, partnership, association or corporation which owns land located within a district and:

(1) Which has subscribed to one or more benefit units of such district; or  
 (2) *which is charged a franchise fee for water service which is paid, either directly or indirectly through another water provider, to such district;*

(e) “chief engineer” means the chief engineer of the division of water resources, Kansas department of agriculture.

Sec. 12. K.S.A. 2008 Supp. 82a-646 is hereby amended to read as follows: 82a-646. (a) Terms used in this section shall have the meanings provided by K.S.A. 82a-612, and amendments thereto.

(b) If certain lands included within a district cannot be economically or adequately served by the facilities of the district, the owners of such lands may petition the board of directors of the district to release those lands from the district. The petition shall describe the lands requested to be released and shall be signed by at least 75% of the total number of the owners of the lands requested to be released. The board of directors may prescribe a fee to be collected from the petitioners for the purpose of offsetting costs reasonably expected to be incurred by the district in hearing the request for release. The petition for release, together with a verified list of the names and addresses of all owners of the land requested to be released, and the prescribed fee, shall be filed with the secretary of the district.

(c) If the board of directors of the district finds the petition to be in proper form, the board shall conduct a hearing on the petition for release. Notice of the time and place of the hearing shall be mailed to all owners of land requested to be released not later than 10 days before the hearing. The hearing may be continued from time to time without further notice to landowners.

(d) ~~In considering the petition for release, the board shall consider whether the lands requested to be released cannot be economically or adequately served by the facilities of the district and whether the release would be in the best interests of the landowners and the district, based on the following factors: make specific written findings of fact and conclusions determining whether the lands requested to be released cannot be economically or adequately serviced by the facilities of the district and whether such release would be in the best interests of the landowner and the district. The findings and conclusions shall be based upon the preponderance of evidence presented to the board. In determining whether to grant the petition for release, the board's considerations shall be based on the following factors:~~

(1) Whether the petitioners for release of lands have applied for one or more benefit units to serve the lands requested to be released, which applications have been denied *directly or where the cost of the benefit units or service or equipment is unreasonable, excessive or confiscatory so as to render service unavailable;*

(2) the length of time before the board of directors reasonably expect to make water service available to the lands requested to be released;

(3) whether water service is available from another source if the lands are released from the district *and the relative cost of obtaining service from each source;*

(4) if water service is available from the district to the lands requested to be released, the relative cost of obtaining such water service, as determined by the district, compared to the additional value of the lands after water service is made available;

(5) if water service is available from the district, the cost of obtaining such water service, as determined by the district, compared to the cost of obtaining water from another source;

(6) whether any applicable law will prevent any other water suppliers from serving the lands requested to be released; ~~and~~

(7) whether the district's interest in maintaining the integrity of its territory is outweighed by the landowners' need to obtain a source of supply of water to the lands requested to be released;

(8) *whether the decision of such board to deny release of lands would allow the district to yield more than adequate compensation;*

(9) *whether the district establishes a rate for services or equipment that is disproportionate to the services rendered;*

(10) whether the district has provided water service to residents or landowners within the disputed territory and would be losing existing customers or whether the disputed territory would supply new customers;

(11) whether the district can provide a safe and adequate supply of water to customers of such district and whether a greater level of water service can be provided by another provider and the relative cost of each option;

(12) whether such board's refusal to detach the territory would result in any economic waste or hinder any economic development; and

(13) where a district provides water service to residences and where a city is required to provide fire protection services, if duplicate water service lines would cause any economic or physical waste.

(d) The board may approve the release of all or part of the lands requested to be released or may deny the request. The burden of proof shall be on the petitioners for release. The board of directors shall make a determination on the petition for release within 120 days after its receipt, shall record its *written findings and conclusions* in the minutes of the district and shall mail a copy of such *written findings and conclusions* to each petitioner within seven days.

(e) *Except as provided in subsection (f)*, any owner of land requested to be released from the district who is dissatisfied with the determination of the board of directors on the petition for release may bring an action in the district court of the county in which the district is located to determine if the board of directors of the district abused its discretion in making such determination. Such appeal shall be filed within 30 days after the final decision of the board.

(f) *If the district denies the landowner's petition for release because such release would not yield adequate compensation to the district, once such release is denied, the district and the landowner shall determine the amount of compensation sufficient to enable the district to be adequately compensated from the release in the following manner:*

(1) *The district and the landowner shall each select one qualified appraiser and the two appraisers so selected shall then select a third appraiser for the purpose of conducting an appraisal to determine the amount of compensation sufficient to enable the district to be adequately compensated from the release. The appraisers shall consider all elements of value, employing any method of valuation the appraisers deem appropriate and shall specifically consider the following factors in determining reasonable value:*

- (A) *Whether any property of the district is rendered useless or valueless to the district;*
- (B) *the impact on the existing indebtedness of the district and such district's ability to repay that debt;*
- (C) *the value of the service facilities of the district located within the area in question;*
- (D) *the amount of the district's contractual obligations allocable to the area in question;*
- (E) *any demonstrated impairment of service or increase of cost to consumers of the district remaining after the release and the impact on future revenues lost from existing customers;*
- (F) *any necessary and reasonable legal expenses and professional fees;*
- (G) *any factors relevant to maintaining the current financial integrity of the district; and*
- (H) *any other relevant factors.*

(2) *The appraisers shall hear such evidence as the appraisers deem appropriate and shall make a written summary of findings and conclusions. At least two of the three appraisers shall agree as to the amount of compensation owed by the landowner to the district and shall require such payment from the landowner to the district for acceptance.*

(3) *If either the district or the landowner is dissatisfied with the decision of the appraisers, then the district or the landowner may appeal within 30 days such award to the district court. Such appeal shall be heard de novo by the court without a jury.*

(g) If the board of directors of the district approves the petition, or if the district court on appeal determines that the board abused its discretion in denying release, a copy of the board's action approving the release or of the district court's order on appeal, as the case may be, shall be transmitted to the chief engineer and to the county clerk, who shall note the change of such district's boundaries.

New Sec. 13. The provisions of sections 8 through 10, and amendments thereto, shall be part of and supplemental to the Kansas rural water district act.

Sec. 14. K.S.A. 12-519, 12-520b, 12-521, 12-531, 12-532 and K.S.A. 2008 Supp. 12-520, 82a-612 and 82a-646 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 9, by striking all after “ACT”; by striking all in lines 10 and 11 and inserting “concerning local governments; relating to boundary issues; amending K.S.A. 12-519, 12-520b, 12-521, 12-531 and 12-532 and K.S.A. 2008 Supp. 12-520, 82a-612 and 82a-646 and repealing the existing sections.”;

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

SHARON SCHWARTZ  
LANCE KINZER  
JOSH SVATY  
*Conferees on part of House*

CAROLYN MCGINN  
JOHN VRATIL  
MARCI FRANCISCO  
*Conferees on part of Senate*

On motion of Rep. Schwartz, the conference committee report on **H. Sub. for SB 51** was adopted.

On roll call, the vote was: Yeas 81; Nays 31; Present but not voting: 1; Absent or not voting: 12.

Yeas: Aurand, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Carlson, Craft, Crum, DeGraaf, Dillmore, Donohoe, Faber, Finney, Flaharty, Frownfelter, Fund, S. Gatewood, Goico, Gordon, Goyle, Grant, Hayzlett, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Jack, Johnson, Kelley, Kerschen, Kiegerl, Kinzer, Knox, Landwehr, Light, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Merrick, Morrison, Moxley, Myers, Navinsky, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Sawyer, Schroeder, Schwartz, Seiwert, Siegfried, Svaty, Tafanelli, Trimmer, Vickrey, Ward, Watkins, Wetta, B. Wolf, Worley.

Nays: Ballard, Benlon, Burroughs, Carlin, Colloton, Crow, Davis, Feuerborn, Furtado, Garcia, D. Gatewood, Henderson, Huntington, Kleeb, Kuether, Loganbill, Long, Menghini, Neighbor, Quigley, Ruiz, Slattery, Spalding, Swanson, Swenson, Talia, Tietze, Williams, Winn, K. Wolf, Yoder.

Present but not voting: King.

Absent or not voting: Bethell, George, Grange, Hawk, Lane, Peterson, Rardin, Roth, Schwab, Shultz, Sloan, Whitham.

#### MESSAGE FROM THE SENATE

The Senate adopts conference committee report on **HB 2195**.

#### REPORT OF STANDING COMMITTEE

Your Committee on **Calendar and Printing** recommends on requests for resolutions and certificates that

**Request No. 133**, by Representative Bethell, congratulating Warren “Swanee” Johnson on his 88th birthday, May 27, 2009;

**Request No. 134**, by Representative Jack, commending Nick Pompeo in recognition for academic excellence and extraordinary service to the community;

**Request No. 135**, by Representatives Kerschen, Hawk and Carlin, congratulating the Kansas State University Soils Judging Team 2009 in recognition of winning first place in the 2009 National Championship Soils Judging Competition;

**Request No. 136**, by Representative McCray-Miller, commending present and past officers of the Just About Kids Organization;

**Request No. 137**, by Representative Jack, commending Matthew S. Gibson for his service to the community;

**Request No. 138**, by Representative Crow, commending Ethan Potter for 50 years of service to the Kansas Judicial System and the citizens of Leavenworth;

**Request No. 139**, by Representative O'Brien, congratulating Elmer and Anna Lea Tanking on their 50th Wedding Anniversary;

**Request No. 140**, by Representatives Menghini, Grant, Gatewood, Palmer and Williams, commending Dr. Tom Bryant, in recognition of his 39 years of service at Pittsburg State University;

**Request No. 141**, by Representatives Phelps and Johnson, congratulating Elouise Miller on her retirement from 60 years of teaching Kansas children with 53 years at Hays USD 489;

**Request No. 142**, by Representative Jack, commending Vicky Roper on her service and commitment to our children's early education;

**Request No. 143**, by Representative George, commending the ladies of COLG, on their many years of furnishing meals for those who have lost loved ones;

**Request No. 144**, by Representative Kiegerl, congratulating Dorothy S. Menefee on receiving the Governor's Scholarship Award;

**Request No. 145**, by Representative Kiegerl, congratulating Madeline P. Curry on receiving the Governor's Scholarship Award;

**Request No. 146**, by Representative Pottorff, congratulating Grace Presbyterian Church of Wichita, Kansas on its 100th anniversary;

**Request No. 147**, by Representative Morrison, congratulating the Goodland Kiwanis Club on their 60th Anniversary and their contributions to Goodland;

be approved and the Chief Clerk of the House be directed to order the printing of said certificates and order drafting of said resolutions.

On motion of Rep. Merrick, the committee report was adopted.

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

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Speaker O'Neal called the House to order.

#### **INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, to suspend the rules for the purpose of considering **HB 2283**, the motion did not prevail.

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

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Speaker O'Neal called the House to order.

#### **MESSAGE FROM THE SENATE**

Announcing adoption of **SCR 1619**.

The Senate adopts conference committee report on **H. Sub. for SB 51**.

#### **INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Merrick, **SCR 1619**, A concurrent resolution relating to the 2009 regular session of the Legislature and providing for an adjournment thereof, was introduced and adopted.

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

**S. Sub. for HB 2373** reported correctly engrossed May 8, 2009.

**HB 2010** reported correctly re-engrossed May 8, 2009.

#### **REPORT ON ENROLLED RESOLUTIONS**

**HR 6031, HR 6032** reported correctly enrolled and properly signed on May 8, 2009.

Speaker O'Neal announced the House adjourned until 10:00 a.m., Thursday, June 4, 2009.