

Journal of the Senate

FIFTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 31, 2009—9:00 a.m.

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

Heavenly Father,

In the book of Proverbs we read, "The integrity of the upright guides them,
but the unfaithful are destroyed by their duplicity." Prov.11:3

One word sums up the blameless person;
One word describes the morally sound;
One word embodies the scrupulously honest;
It's the one where integrity is found.

Job was a man of integrity.
He was like the man Paul described:
The man in his letter to Titus:
The one who could never be bribed.

One word sums up what one should be:
Integrity is the word.
Integrity describes the faultless man,
Whose testimony is heard.

Thank You for people of integrity, Lord,
May their numbers continue to grow.
People we know we can always trust,
People who love You so.

I pray in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolutions were referred to Committees as indicated:

Federal and State Affairs: **HB 2180**.

Financial Institutions & Insurance: **HB 2331**.

Judiciary: **Sub HB 2340**.

Natural Resources: **HCR 5012, HCR 5013**.

Public Health and Welfare: **HB 2356**.

REFERRAL OF APPOINTMENTS

The following appointments made by the Governor and submitted to the senate for confirmation, were referred to Committees as indicated:

Brigadier General, Kansas National Guard:

Alexander Duckworth, effective upon the date of confirmation by the Senate.
(Federal and State Affairs)

Kansas Public Employees' Retirement System Board of Trustees, Member:

Rachel Reiber, effective upon the date of confirmation by the Senate to serve a term of four years.

(Ways and Means)

Kansas Public Employees' Retirement System Board of Trustees, Member:

Michael Braude, effective upon the date of confirmation by the Senate to serve a term of four years.

(Ways and Means)

Kansas Human Rights Commission, Member:

Jeffrey E. Lewis, effective upon the date of confirmation by the Senate to serve a term of four years.

(Federal and State Affairs)

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **Senate Substitute for HB 2115**, requests a conference and appoints Representatives C. Holmes, Knox and Kuether as conferees on the part of the House.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2260**, requests a conference and appoints Representatives Brunk, Grange and Ruiz as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2250**, requests a conference and appoints Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2152**, requests a conference and appoints Representatives Hayzlett, Vickrey and Long as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2155**, requests a conference and appoints Representatives Schwartz, M. Holmes and Garcia as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2072**, requests a conference and appoints Representatives Schwartz, Shultz and Flaharty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 35**, and has appointed Representatives Schwartz, M. Holmes and Garcia as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 68**, and has appointed Representatives Kinzer, Whitham and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 160**, and has appointed Representatives Brunk, Grange and Ruiz as conferees on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Owens the Senate nonconcurred in the House amendments to **SB 66** and requested a conference committee be appointed.

The President appointed Senators Owens, D. Schmidt and Haley as a conference committee on the part of the Senate.

On motion of Senator Reitz the Senate nonconcurred in the House amendments to **H Sub for SB 91** and requested a conference committee be appointed.

The President appointed Senators Reitz, Wagle and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Brungardt the Senate nonconcurred in the House amendments to **SB 212** and requested a conference committee be appointed.

The President appointed Senators Brungardt, Reitz and Faust-Goudeau as a conference committee on the part of the Senate.

On motion of Senator Schodorf the Senate nonconcurrent in the House amendments to **SB 225** and requested a conference committee be appointed.

The President appointed Senators Schodorf, Vratil and Kelly as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Emler, the Senate acceded to the request of the House for a conference on **S Sub for HB 2072**.

The President appointed Senators Vratil, McGinn and Kelly as conferees on the part of the Senate.

On motion of Senator Apple, the Senate acceded to the request of the House for a conference on **S Sub for HB 2115**.

The President appointed Senators Apple, Petersen and Lee as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2152**.

The President appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on **HB 2250**.

The President appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

On motion of Senator Wysong, the Senate acceded to the request of the House for a conference on **S Sub for HB 2260**.

The President appointed Senators Wysong, Lynn and Holland as conferees on the part of the Senate.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Hensley as a member of the Conference Committee on **SB 225** to replace Senator Kelly.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Senate Substitute for HB 2354**, submits the following report:

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

- On page 1, in line 29, by striking the first "and" and inserting a comma;
- On page 12, in line 2, by striking "\$8,231,690" and inserting "\$8,495,544";
- On page 14, in line 36, by striking "\$895,096" and inserting "\$932,476";
- On page 16, in line 2, by striking "\$1,812,999" and inserting "\$1,874,499"; in line 27, by striking "\$139,977" and inserting "\$152,768"; in line 41, by striking "\$750,076" and inserting "\$766,076";
- On page 18, in line 41, by striking "\$2,762,312" and inserting "\$2,820,232";
- On page 20, in line 34, by striking "\$266,706" and inserting "\$283,863";
- On page 26, in line 24, by striking "\$16,113,762" and inserting "\$17,031,301";
- On page 27, in line 30, by striking all following "meeting"; by striking all in lines 31 through 39; in line 40, by striking all preceding the period;
- On page 29, in line 15, by striking all following "meeting"; by striking all in lines 16 through 23; in line 24, by striking all preceding the period;
- On page 30, in line 12, by striking "\$2,422,600" and inserting "\$2,424,333"; in line 18, by striking "\$4,078,506" and inserting "\$4,153,111"; in line 25, by striking "\$963,352" and inserting "\$975,076";
- On page 33, in line 17, by striking "\$4,225,896" and inserting "\$4,403,577";
- On page 44, in line 10, by striking "\$1,177,003" and inserting "\$1,658,928"; in line 12, preceding the period by inserting ". *Provided further*, That \$251,834 shall be expended from

this account for technology improvements and professional development before June 30, 2010”;

On page 45, in line 28, by striking “\$11,993,011” and inserting “\$11,993,010”;

On page 47, in line 5, by striking “\$100,803,728” and inserting “\$111,473,614”;

On page 49, in line 36, by striking “\$68,414,349” and inserting “\$66,885,884”; in line 40, by striking “\$9,205,165” and inserting “\$11,041,630”;

On page 52, in line 34, by striking “\$15,497,254” and inserting “\$16,290,795”;

On page 53, following line 33, by inserting the following:

“(g) (1) In addition to other purposes for which expenditures may be made by the state corporation commission from the public service regulation fund for fiscal year 2010 for the state corporation commission as authorized by this or other appropriation act of the 2009 regular session of the legislature, notwithstanding the provisions of any other statute to the contrary, the state corporation commission may make expenditures from the public service regulation fund for fiscal year 2010 for expenses incurred by the Kansas electric transmission authority: *Provided*, That expenditures from the public service regulation fund for the expenses of the Kansas electric transmission authority for fiscal year 2010 shall not exceed \$98,413.

(2) In addition to other purposes for which expenditures may be made by the state corporation commission from the public service regulation fund for fiscal year 2011 for the state corporation commission as authorized by this or other appropriation act of the 2009 regular session of the legislature or by any appropriation act of the 2010 regular session of the legislature, notwithstanding the provisions of any other statute to the contrary, the state corporation commission may make expenditures from the public service regulation fund for fiscal year 2011 for expenses incurred by the Kansas electric transmission authority, if the total expenditures for such purpose authorized by the expenditure limitation prescribed by this subsection (g) for fiscal year 2010 are not expended or encumbered for fiscal year 2010, then the amount equal to the amount of such unexpended or encumbered expenditure authority for fiscal year 2010 remaining may be expended by the state corporation commission from the public service regulation fund for fiscal year 2011 for expenses incurred by the Kansas electric transmission authority and any such expenditures for fiscal year 2011 shall be in addition to any expenditure limitation imposed on the public service regulation fund for expenses incurred by the Kansas electric transmission authority for fiscal year 2011.”;

Also on page 53, in line 41, by striking “\$772,118” and inserting “\$806,222”;

On page 60, in line 39, by striking “\$0” and inserting “No limit”;

On page 71, in line 20, by striking “\$1,517,348” and inserting “\$1,604,271”;

On page 72, in line 6, by striking “\$18,984,261” and inserting “\$19,244,024”;

On page 90, following line 5, by inserting the following:

“Sec. 56.

KANSAS TECHNOLOGY ENTERPRISE CORPORATION

(a) There is appropriated for the above agency from the state economic development initiatives fund for the fiscal year ending June 30, 2010, the following:

Operations, assistance and grants (including official hospitality) \$10,494,718
Provided, That any unencumbered balance in the operations, assistance and grants (including official hospitality) account as of June 30, 2009, is hereby reappropriated for fiscal year 2010: *Provided further*, That expenditures from the operations, assistance and grants (including official hospitality) account for the fiscal year 2010 for salary and wages shall not exceed \$1,376,416.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2010, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

MAMTC federal fund No limit
KTEC special revenue fund No limit

(c) No moneys appropriated for the fiscal year ending June 30, 2010, by this or other

appropriation act of the 2009 regular session of the legislature for the Kansas technology enterprise corporation shall be expended for any bonus or other payment of additional compensation for any officer or employee of the Kansas technology enterprise corporation, or any subsidiary corporation, agency or instrumentality thereof, except longevity bonus payments pursuant to K.S.A. 75-5541, and amendments thereto, or as otherwise specifically authorized by statute or other bonus payments that are in conformance with the governor's executive order no. 08-09, which was filed with the secretary of state and was effective on June 15, 2008.

(d) In addition to the other purposes for which expenditures may be made by the Kansas technology enterprise corporation from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2010 for the Kansas technology enterprise corporation as authorized by this or other appropriation act of the 2009 regular session of the legislature, expenditures shall be made by the Kansas technology enterprise corporation from moneys appropriated from the state general fund or any special revenue fund for fiscal year 2010, notwithstanding the provisions of any other statute, to adopt, implement and administer policies limiting bonus payments that are applicable to all officers and employees of the Kansas technology enterprise corporation for fiscal year 2010, that are equivalent to the provisions of the governor's executive order no. 08-09, or a succeeding executive order of the governor for fiscal year 2010, and that, in addition, include a prohibition on payment of any employee bonuses from any moneys of KTEC Holding, Inc., and to take all administrative and other actions as may be required, including adopting additional policies and entering into such new agreements, or modifications of existing agreements as may be required for the implementation and administration of such policies limiting bonus payments to officers and employees of Kansas technology enterprise corporation for fiscal year 2010.”;

And renumbering sections accordingly;

On page 94, in line 40, by striking “\$6,604,483” and inserting “\$6,932,948”;

On page 96, in line 2, by striking “\$49,875” and inserting “\$49,375”; in line 6, by striking “\$338,017” and inserting “\$95,017”; following line 21, by inserting the following:

“PKU treatment..... \$208,000”;

On page 99, by striking all in lines 40 through 43;

On page 110, in line 32, preceding the period by inserting “: *And provided further*, That notwithstanding the provisions of K.S.A. 2008 Supp. 75-5958, and amendments thereto, or any other statute, and subject to appropriations, the secretary of aging shall institute trending methods to provide rate increases for nursing facilities for fiscal year 2010”; in line 43, by striking “\$1,841,286” and inserting “\$1,814,286”;

On page 115, in line 10, by striking “\$18,314,609” and inserting “\$19,514,609”;

On page 116, by striking all in lines 11 through 17;

And relettering remaining subsections accordingly;

On page 117, in line 5, by striking “\$116,760,455” and inserting “\$115,470,727”;

On page 118, in line 10, by striking “\$17,431,428” and inserting “\$17,343,956”;

On page 119, in line 28, by striking “\$57,215,055” and inserting “\$61,215,055”;

On page 120, in line 2, by striking “\$43,928,974” and inserting “\$45,210,781”;

On page 128, in line 14, by striking “\$11,145,231” and inserting “\$11,077,070”; in line 36, by striking “\$374,253,137” and inserting “\$369,788,630”;

On page 129, in line 9, by striking “\$2,022,535,466” and inserting “\$2,001,654,934”;

On page 133, following line 23, by inserting the following:

“(f) On the effective date of this act, of the amount reappropriated for the above agency for the fiscal year ending June 30, 2009, by section 6(a) of chapter 184 of the 2008 Session Laws of Kansas from the state general fund in the Kansas career pipeline grant account, the sum of \$8,305 is hereby lapsed.”;

Also on page 133, in line 28, by striking “\$1,727,355” and inserting “\$1,726,546”; in line 34, by striking “\$3,124,712” and inserting “\$3,192,912”; in line 39, by striking “\$2,052,972” and inserting “\$2,121,197”; in line 41, by striking “\$475,804” and inserting “\$475,779”;

On page 135, in line 14, by striking “\$142,500” and inserting “\$140,625”;

On page 136, in line 35, by striking “\$5,308,529” and inserting “\$5,573,466”; in line 41, by striking “\$70,188” and inserting “\$72,374”;

On page 138, in line 37, by striking "\$32,440,402" and inserting "\$34,386,996"; in line 41, by striking "\$137,382" and inserting "\$139,257"; in line 42, by striking "\$282,466" and inserting "\$287,576";

On page 141, in line 2, by striking "hays" and inserting "Hays"; preceding line 3, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Fort Hays state university shall be expended only for deferred maintenance.”;

Also on page 141, in line 13, by striking "hays" and inserting "Hays"; following line 13, by inserting the following material to read as follows:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Fort Hays state university shall be expended only for deferred maintenance.”;

Also on page 141, in line 18, by striking "\$102,138,369" and inserting "\$109,301,449"; in line 22, by striking "\$137,625" and inserting "\$139,500";

On page 144, following line 3, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university shall be expended only for deferred maintenance.”;

Also on page 144, following line 14, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university shall be expended only for deferred maintenance.”;

Also on page 144, in line 21, by striking "\$19,472,577" and inserting "\$19,738,609"; in line 26, by striking "\$29,508,814" and inserting "\$31,504,132";

On page 145, following line 41, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university extension systems and agriculture research programs shall be expended only for deferred maintenance.”;

On page 146, following line 23, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university extension systems and agriculture research programs shall be expended only for deferred maintenance.”;

Also on page 146, in line 28, by striking "\$9,853,407" and inserting "\$10,460,071";

On page 147, following line 35, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university veterinary medical center shall be expended only for deferred maintenance.”;

On page 148, following line 3, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Kansas state university veterinary medical center shall be expended only for deferred maintenance.”;

Also on page 148, in line 8, by striking "\$30,703,760" and inserting "\$32,633,306"; in line 12, by striking "\$222,851" and inserting "\$225,887"; in line 13, by striking "\$133,740" and inserting "\$135,562";

On page 150, following line 5, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Emporia state university shall be expended only for deferred maintenance.”;

Also on page 150, following line 16, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Emporia state university shall be expended only for deferred maintenance.”;

Also on page 150, in line 21, by striking "\$33,807,357" and inserting "\$35,800,245";

On page 152, following line 16, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Pittsburg state university shall be expended only for deferred maintenance.”;

Also on page 152, following line 28, by inserting the following:

“Provided, That expenditures made from the federal higher education fiscal stabilization fund—Pittsburg state university shall be expended only for deferred maintenance.”;

Also on page 152, in line 33, by striking "\$127,861,708" and inserting "\$136,333,684"; in line 37, by striking "\$6,183,591" and inserting "\$6,268,088"; in line 41, by striking "\$137,494" and inserting "\$139,369";

On page 155, following line 4, by inserting the following:
 “*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas shall be expended only for deferred maintenance.”;

Also on page 155, in line 17, by striking “\$28,800” and inserting “\$34,400”; following line 31, by inserting the following:

“*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas shall be expended only for deferred maintenance.”;

Also on page 155, in line 36, by striking “\$103,957,001” and inserting “\$108,184,188”;

On page 156, in line 5, by striking “\$4,573,150” and inserting “\$4,635,650”;

On page 158, following line 8, by inserting the following:

“*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas medical center shall be expended only for deferred maintenance.”;

Also on page 158, following line 33, by inserting the following:

“*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—university of Kansas medical center shall be expended only for deferred maintenance.”;

Also on page 158, in line 38, by striking “\$67,094,198” and inserting “\$68,930,425”;

On page 160, following line 27, by inserting the following:

“*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Wichita state university shall be expended only for deferred maintenance.”;

Also on page 160, following line 42, by inserting the following:

“*Provided*, That expenditures made from the federal higher education fiscal stabilization fund—Wichita state university shall be expended only for deferred maintenance.”;

On page 161, in line 6, by striking “\$3,345,276” and inserting “\$3,475,892”;

On page 162, in line 38, preceding the period, by inserting “: *Provided further*, That all expenditures from the military service scholarships account shall be made for scholarships awarded under the military service scholarship program act”;

On page 163, in line 16, by striking “\$11,199,070” and inserting “\$11,636,840”; in line 18, by striking “\$31,410,031” and inserting “\$32,637,844”; in line 21, by striking “\$1,491,540” and inserting “\$1,548,998”; in line 22, by striking “\$98,140,255” and inserting “\$101,976,543”; in line 24, by striking “\$407,319” and inserting “\$423,241”; in line 30, by striking “education” and inserting “regents”; in line 31, by striking “\$74,165” and inserting “\$76,035”; in line 37, by striking all following “That”; by striking all in lines 38 through 43;

On page 164, by striking all in lines 1 through 12; in line 13, by striking all preceding the period and inserting “all expenditures from the nurse educator grant program account shall be made for scholarships awarded under the nurse educator service scholarship program act”; in line 14, by striking “\$1,829,873” and inserting “\$1,900,000”; in line 27, by striking “\$739,160” and inserting “\$767,693”; by striking all in lines 28 through 36; following line 43, by inserting the following:

“Unified operating grant..... \$424,921”;

On page 167, following line 19, by inserting the following:

“*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund shall be expended only for deferred maintenance.”;

Also on page 167, following line 21, by inserting the following:

“*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—community colleges shall be expended only for deferred maintenance.”;

Also on page 167, following line 23, by inserting the following:

“*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—municipal university shall be expended only for deferred maintenance.”;

Also on page 167, following line 25, by inserting the following:

“*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—postsecondary technical education shall be expended only for deferred maintenance.”;

Also on page 167, in line 43, by striking “year ending” and inserting “years ending June 30, 2009, and”;

On page 168, in line 6, by striking “year ending” and inserting “years ending June 30, 2009, and”; in line 15, by striking “or”; in line 25, preceding the period, by inserting “of such institutions, or (3) a federal fiscal stabilization fund of a community college, the municipal university or an institution of postsecondary technical education”;

On page 169, by striking all in lines 27 through 43;

On page 170, by striking all lines 1 through 20;

And by relettering the remaining subsections accordingly;

On page 171, following line 39, by inserting the following:

“*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund shall be expended only for deferred maintenance.”;

Also on page 171, following line 41, by inserting the following:

“*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—community colleges shall be expended only for deferred maintenance.”;

Also on page 171, following line 43, by inserting the following:

“*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—municipal university shall be expended only for deferred maintenance.”;

On page 172, following line 2, by inserting the following:

“*Provided*, That all moneys credited to the federal higher education fiscal stabilization fund—postsecondary technical education shall be expended only for deferred maintenance.”;

Also on page 172, in line 32, by striking “\$47,474,380” and inserting “\$48,120,630”;

On page 177, in line 28, by striking “\$3,430,891” and inserting “\$3,641,968”;

On page 178, in line 21, by striking “\$3,838,351” and inserting “\$3,878,689”; in line 41, by striking “\$17,143,209” and inserting “\$16,932,132”;

On page 181, in line 18, by striking “\$20,188,218” by inserting “\$961,059”; in line 20, by striking all preceding “from” and inserting “70(g) of 2009 House Substitute for Substitute for Senate Bill No. 23,”; in line 21, by striking “operating expenditures” and inserting “purchase of services”;

On page 184, in line 8, by striking “\$0” and inserting “No limit”;

On page 187, in line 42, by striking “\$34,044,235” and inserting “\$34,603,615”;

On page 189, in line 31, by striking “\$18,985,357” and inserting “\$19,520,547”;

On page 190, in line 25, by striking “\$4,823,244.50” and inserting “\$4,957,042”;

On page 191, in line 7, by striking “(I)” and inserting “(i)”; in line 9, by striking “\$8,511,058.75” and inserting “\$8,650,903.75”; following line 16, by inserting the following:

“(j) On July 1, 2009, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$100,000 from the vehicle identification number fee fund of the Kansas highway patrol to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the vehicle identification number fee fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the vehicle identification number fee fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the Kansas highway patrol by other state agencies which receive appropriations from the state general fund to provide such services.

(k) On July 1, 2009, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$300,000 from the highway patrol motor vehicle fund of the Kansas highway patrol to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the highway patrol motor vehicle fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the highway patrol motor vehicle fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the Kansas highway patrol by other state agencies which receive appropriations from the state general fund to provide such services.”;

Also on page 191, in line 21, by striking “\$14,286,269” and inserting “\$15,384,913”;

On page 196, in line 40, by striking “\$662,746” and inserting “\$713,591”;

On page 197, in line 1, by striking "\$7,745,439" and inserting "\$8,134,151"; by striking all in lines 13 through 24;

On page 205, following line 12, by inserting the following:

"(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2009, by section 129(a) of chapter 131 of the 2008 Session Laws of Kansas on the state fair fee fund is hereby increased from \$10,000 to \$15,000.";

On page 225, in line 25, following "(a)", by inserting "In addition to the other purposes for which expenditures may be made by the governor's department from the governor's department account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the governor's department from the governor's department account of the state general fund for fiscal year 2010 for an additional amount of biweekly compensation for the governor equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$4,300.55 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (a) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the governor for the biweekly pay periods which are chargeable to fiscal year 2010.

(b) (1) In addition to the other purposes for which expenditures may be made by the lieutenant governor from the operations account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the lieutenant governor from the operations account of the state general fund for fiscal year 2010 for an additional amount of biweekly compensation for the lieutenant governor equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$1,216.39 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (b) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the lieutenant governor for the biweekly pay periods which are chargeable to fiscal year 2010.

(2) In addition to the other purposes for which expenditures may be made by the lieutenant governor from the operations account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the lieutenant governor from the operations account of the state general fund for fiscal year 2010 for an additional amount of allowance equal to the amount required to provide, along with the amount of allowance otherwise payable from appropriations for the lieutenant governor to the lieutenant governor at the rate prescribed by subsection (a)(1) of K.S.A. 75-3103, and amendments thereto, an aggregate amount of allowance of \$77.68 for the two-week period which coincides with the first biweekly payroll period which is chargeable to fiscal year 2010 and for each of the 25 ensuing two-week periods thereafter as reimbursement for expenses which are chargeable to fiscal year 2010, notwithstanding the provisions of subsection (a)(1) of K.S.A. 75-3103, and amendments thereto: *Provided*, That all expenditures under this subsection (b)(2) for such purposes shall be made in the same manner that such allowance is payable to the lieutenant governor for such two-week periods for which such allowance is payable in accordance with subsection (a)(1) of K.S.A. 75-3103, and amendments thereto, and which are chargeable to fiscal year 2010.

(c) In addition to the other purposes for which expenditures may be made by the secretary of state from one or more special revenue funds for the fiscal year ending June 30, 2010, expenditures shall be made by the secretary of state from one or more special revenue funds for fiscal year 2010 for an additional amount of biweekly compensation for the secretary of state equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$3,340.89 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (c) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the secretary of state for the biweekly pay periods which are chargeable to fiscal year 2010.

(d) In addition to the other purposes for which expenditures may be made by the attorney general from the operating expenditures account of the state general fund for the fiscal year

ending June 30, 2010, expenditures shall be made by the attorney general from the operating expenditures account of the state general fund for fiscal year 2010 for an additional amount of biweekly compensation for the attorney general equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$3,841.93 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (d) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the attorney general for the biweekly pay periods which are chargeable to fiscal year 2010.

(e) In addition to the other purposes for which expenditures may be made by the state treasurer from one or more special revenue funds for the fiscal year ending June 30, 2010, expenditures shall be made by the state treasurer from one or more special revenue funds for fiscal year 2010 for an additional amount of biweekly compensation for the state treasurer equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$3,340.89 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (e) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the state treasurer for the biweekly pay periods which are chargeable to fiscal year 2010.

(f) In addition to the other purposes for which expenditures may be made by the insurance department from the insurance department service regulation fund for the fiscal year ending June 30, 2010, expenditures shall be made by the insurance department from the insurance department service regulation fund for fiscal year 2010 for an additional amount of biweekly compensation for the commissioner of insurance equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation of \$3,340.89 per biweekly pay period for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (f) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to the commissioner of insurance for the biweekly pay periods which are chargeable to fiscal year 2010.

(g) (1) In addition to the other purposes for which expenditures may be made by each state agency from appropriations made for the fiscal year ending June 30, 2010, expenditures shall be made by each state agency from the appropriations made for fiscal year 2010 for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of a board for any calendar day for which per diem compensation is payable to such member of a board under K.S.A. 75-3212 or 75-3223, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (g) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such member of a board for the biweekly pay periods for which such per diem compensation for calendar days which are chargeable to fiscal year 2010.

(2) As used in this subsection (g), (A) "state agency" means any state agency of the executive branch of state government (i) which has appropriations made for the fiscal year ending June 30, 2010, by this act or any other appropriation act of the 2009 regular session of the legislature, and (ii) which is, or which makes expenditures for, any board; and

(B) "board" means any board, commission, committee, task force, panel or other body in the executive branch of state government, including any advisory body, having one or more members who are entitled to receive per diem compensation for attendance at meetings of such body, or attendance at meetings authorized by such body of a subcommittee or other subsidiary group of such body, as provided in K.S.A. 75-3212 or 75-3223, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto.

(h) In addition to the other purposes for which expenditures may be made by the Kansas turnpike authority for the period commencing July 1, 2009, and ending June 30, 2010, expenditures shall be made by the Kansas turnpike authority for such period for an additional amount of per diem compensation equal to the amount required to provide, along with the

amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the Kansas turnpike authority for any calendar day occurring on or after July 1, 2009, for which per diem compensation is payable to such member of the Kansas turnpike authority under K.S.A. 68-2003, and amendments thereto, who is entitled, in accordance with K.S.A. 75-3223, and amendments thereto, to receive such per diem compensation as provided in K.S.A. 75-3212, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (h) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such member of the Kansas turnpike authority for the appropriate pay periods for which such per diem compensation for calendar days occurring on or after July 1, 2009, and prior to July 1, 2010, is payable by the Kansas turnpike authority.

(i) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the legislature from the operations (including official hospitality) account of the state general fund for fiscal year 2010:

(1) For an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the legislature for service at the regular session or any special session of the legislature for any calendar day which is chargeable to fiscal year 2010; and

(2) for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the legislature and for any other public officer or person for any calendar day for which per diem compensation is payable from appropriations for the legislature to such member of the legislature, public officer or person under K.S.A. 75-3212 or 75-3223, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (i) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the legislature, public officials and persons for the biweekly pay periods for which such per diem compensation for calendar days is payable and which are chargeable to fiscal year 2010.

(j) (1) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the legislature from the operations (including official hospitality) account of the state general fund for fiscal year 2010 for an additional amount of allowance equal to the amount required to provide, along with the amount of allowance otherwise payable from appropriations for the legislature to each member of the legislature at the rate prescribed by subsection (c) of K.S.A. 46-137a, and amendments thereto, an aggregate amount of allowance (A) of \$357.69 for the two-week period which coincides with the first biweekly payroll period which is chargeable to fiscal year 2010 and for each of the 14 ensuing two-week periods thereafter, and (B) of \$357.69 for the two-week period which coincides with the biweekly payroll period which includes April 4, 2010, which is chargeable to fiscal year 2010 and for each of the four ensuing two-week periods thereafter, for each member of the legislature to defray expenses incurred between sessions of the legislature for postage, telephone, office and other incidental expenses, which are chargeable to fiscal year 2010, notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto: *Provided*, That all expenditures under this subsection (j)(1) for such purposes shall be made otherwise in the same manner that such allowance is payable to such members of the legislature for such two-week periods for which such allowance is payable in accordance with this subsection (j)(1) and which are chargeable to fiscal year 2010.

(2) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2011, expenditures shall be made by the legislature from

the operations (including official hospitality) account of the state general fund for fiscal year 2011 for an additional amount of allowance equal to the amount required to provide, along with (A) the amount of allowance otherwise payable from appropriations for the legislature to each member of the legislature at the rate prescribed by subsection (c) of K.S.A. 46-137a, and amendments thereto, an aggregate amount of allowance of \$357.69, except as otherwise provided in this subsection (j)(2), for the two-week period which coincides with the first biweekly payroll period which is chargeable to fiscal year 2011 and for each of the 14 ensuing two-week periods thereafter, and (B) for the two-week period which coincides with the biweekly payroll period which includes April 3, 2011, which is chargeable to fiscal year 2011 and for each of the four ensuing two-week periods thereafter, for each member of the legislature to defray expenses incurred between sessions of the legislature for postage, telephone, office and other incidental expenses, which are chargeable to fiscal year 2011, notwithstanding the provisions of K.S.A. 46-137a, and amendments thereto: *Provided*, That, if the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act are increased for the payroll periods chargeable to the fiscal year ending June 30, 2011, then the aggregate amount of allowance payable under this subsection (j)(2) for the two-week period which coincides with the first biweekly pay period that such increase is effective and each of the two-week periods thereafter, which are chargeable to fiscal year 2011 and for which such allowance is payable under this subsection (j)(2), shall be increased by an amount computed by multiplying the average of the percentage increases in all steps of such pay plan by the aggregate amount of allowance otherwise payable under this subsection (j)(2): *Provided further*, That all expenditures under this subsection (j)(2) for such purposes shall be made otherwise in the same manner that such allowance is payable to such members of the legislature for such two-week periods for which such allowance is payable in accordance with this subsection (j)(2) and which are chargeable to fiscal year 2011.

(k) In addition to the other purposes for which expenditures may be made by the legislature from the operations (including official hospitality) account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the legislature from the operations (including official hospitality) account of the state general fund for fiscal year 2010 for an additional amount of biweekly compensation for the following legislative officers equal to the amount required to provide, along with the amount of biweekly compensation otherwise payable, an aggregate amount of compensation per biweekly pay period for such legislative officers as follows:

(1) for the president of the senate and the speaker of the house of representatives equal to the amount required to provide an aggregate amount of \$545.37 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010;

(2) for the speaker pro tem of the house of representatives, the vice president of the senate, the assistant majority leaders of the senate and house of representatives, and the assistant minority leaders of the senate and house of representatives equal to the amount required to provide an aggregate amount of \$278.35 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010;

(3) for the chairperson of the senate committee on ways and means and the chairperson of the house of representatives committee on appropriations equal to the amount required to provide an aggregate amount of \$438.57 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010;

(4) for the majority leaders of the senate and house of representatives equal to the amount required to provide an aggregate amount of \$492.01 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010; and

(5) for the minority leaders of the senate and house of representatives equal to the amount required to provide an aggregate amount of \$492.01 per biweekly pay period for services performed in connection with discharging the duties assigned to the respective positions for each biweekly pay period which is chargeable to fiscal year 2010: *Provided*, That all ex-

penditures under this subsection (k) for such purposes shall be made in the same manner and at the same times that biweekly compensation is payable to such legislative officers under K.S.A. 46-137b, and amendments thereto, for the biweekly pay periods which are chargeable to fiscal year 2010.

(l) In addition to the other purposes for which expenditures may be made by the legislative coordinating council from the legislative coordinating council—operations account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the legislative coordinating council from the legislative coordinating council—operations account of the state general fund for fiscal year 2010 for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the legislative coordinating council for any calendar day for which per diem compensation is payable from appropriations for the legislative coordinating council under K.S.A. 46-1209, and amendments thereto, to such member as provided in K.S.A. 75-3212, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (l) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the legislative coordinating council for the biweekly pay periods for which such per diem compensation is payable for calendar days which are chargeable to fiscal year 2010.

(m) In addition to the other purposes for which expenditures may be made by the division of post audit from the operations (including legislative post audit committee) account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the division of post audit from the operations (including legislative post audit committee) account of the state general fund for fiscal year 2010:

(1) For an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the legislative post audit committee for any calendar day for which per diem compensation is payable from appropriations for the division of post audit under K.S.A. 46-1104, and amendments thereto, to such member as provided in K.S.A. 75-3212 and amendments thereto at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and which is chargeable to fiscal year 2010; and

(2) for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the contract audit committee for any calendar day for which per diem compensation is payable from appropriations for the division of post audit under K.S.A. 46-1120, and amendments thereto, to such member as provided in K.S.A. 75-3223, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and which is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (m) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the legislative post audit committee or contract audit committee for the biweekly pay periods for which such per diem compensation is payable for calendar days which are chargeable to fiscal year 2010.

(n) In addition to the other purposes for which expenditures may be made by the judicial branch from the judiciary operations account of the state general fund for the fiscal year ending June 30, 2010, expenditures shall be made by the judicial branch from the judiciary operations account of the state general fund for fiscal year 2010:

(1) for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the advisory council on dispute resolution for any calendar day for which per diem compensation is payable to such member of the advisory council on dispute resolution under K.S.A. 5-505, and amendments thereto, who is entitled, in accordance with subsection (e) of K.S.A. 75-3223, and amendments thereto, to receive such per diem compensation as provided in K.S.A. 75-3212,

and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and which is chargeable to fiscal year 2010; and

(2) for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each retired justice or judge who performs judicial service or duties under K.S.A. 20-2616, and amendments thereto, for each calendar day for which per diem compensation is payable to such retired justice or judge under K.S.A. 20-2616, and amendments thereto, and is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (n) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the advisory council on dispute resolution or to such retired justices or judges for the biweekly pay periods for which such per diem compensation is payable and which are chargeable to fiscal year 2010.

(o) In addition to the other purposes for which expenditures may be made by the judicial council from the operating expenditures account of the state general fund and one or more special revenue funds for the fiscal year ending June 30, 2010, expenditures shall be made by the judicial council from the operating expenditures account of the state general fund for fiscal year 2010 for an additional amount of per diem compensation equal to the amount required to provide, along with the amount of per diem compensation otherwise payable, an aggregate amount of compensation of \$89.55 per calendar day for each member of the judicial council and for each regularly appointed member of a special committee of the judicial council who is not a member of the judicial council for any calendar day for which per diem compensation is payable to such member of the judicial council or a special committee thereof under K.S.A. 20-2206, and amendments thereto, at the rate of compensation in accordance with K.S.A. 75-3212, and amendments thereto, at the rate prescribed by subsection (a) of K.S.A. 46-137a, and amendments thereto, and is chargeable to fiscal year 2010: *Provided*, That all expenditures under this subsection (o) for such purposes shall be made in the same manner and at the same times that per diem compensation is payable to such members of the judicial council or special committees thereof for the biweekly pay periods for which such per diem compensation is payable and which are chargeable to fiscal year 2010.

(p) In addition to the other purposes for which expenditures may be made by state agencies from one or more accounts of the state general fund and one or more special revenue funds in accordance with appropriations for the fiscal year ending June 30, 2010, made by this or other appropriation act of the 2009 regular session of the legislature for additional amounts of compensation for state officers and employees in accordance with the following:

(1) The governor is hereby authorized to modify the pay plan for the classified service under the Kansas civil service act for fiscal year 2010 in accordance with this subsection (p)(1) and to adopt such pay plan as so modified; the existing pay plan for fiscal year 2010 shall be modified to provide for (A) a base pay rate increase of 1.0% in the pay rates of such pay plan, which shall be effective on the first day of the first biweekly payroll period which is chargeable to the fiscal year ending June 30, 2010, (B) additional modifications to implement the recommendations of the state employee compensation oversight commission, including (i) the design, development and implementation of the five recommended pay plans, (ii) development and implementation of a new statewide employee performance management system for classified executive branch employees, and (iii) performing market salary surveys on one-third of the executive branch classified workforce annually, and (C) market adjustments to the job classes determined to be significantly below market salary rates, which shall be effective on the first day of the first biweekly payroll period which is chargeable to the fiscal year ending June 30, 2010, for positions in such job classifications; the pay plan adopted by the governor under this subsection (p)(1) shall be the pay plan for the classified service under the Kansas civil service act and shall be effective on the first day of the first biweekly payroll period which is specified therefor in this subsection (p)(1) and which is chargeable to the fiscal year ending June 30, 2010; the pay plan adopted by the governor under this subsection (p)(1) for fiscal year 2010 shall be subject to modification and approval

as provided under K.S.A. 75-2938, and amendments thereto, and to any enactment of the legislature applicable thereto;

(2) The governor is hereby authorized to modify or authorize the modification of the salaries of state officers and employees who are in the unclassified service under the Kansas civil service act and whose salaries are subject to approval by the governor under K.S.A. 75-2935b or 75-2935c, and amendments thereto, to provide for base salary increases, to be effective on the first day of the first payroll period which is chargeable to the fiscal year ending on June 30, 2010, for which the base salary increase is authorized in accordance with this subsection (p)(2), and to be distributed from a salary increase pool: *Provided*, That for each biweekly payroll period which is chargeable to fiscal year 2010, the average of such increases shall not exceed an additional 1.0% of the base salaries of such officers and employees; and

(3) each elected state official of the executive branch of state government, including the state board of education, the state board of regents and the board of trustees of the Kansas public employees retirement system, in each such official, corporation or board's discretion, are hereby authorized to modify or to authorize the modification of the salaries of the state officers and employees of such official, corporation or board, who are in the unclassified service under the Kansas civil service act and whose salaries are not subject to approval by the governor under K.S.A. 75-2935b, and amendments thereto, to provide for base salary increases to be effective on the first day of the first payroll period which is chargeable to the fiscal year ending June 30, 2010, for which the base salary increase is authorized in accordance with this subsection (p)(3), and to be distributed from a salary increase pool: *Provided*, That for each biweekly payroll period which is chargeable to fiscal year 2010, the average of such increases shall not exceed an additional 1.0% of the base salaries of such officers and employees of such official, corporation or board. The provisions of this subsection (p)(3) shall not authorize or provide any salary increase for the governor, lieutenant governor, secretary of state, state treasurer, commissioner of insurance, or attorney general, or for any member of any state board, commission, council or committee receiving per diem compensation as provided by statute.

(q)";

Also on page 225, in line 43, by striking "(a)" and inserting "(q)";

On page 226, in line 10, by striking "(a)" and inserting "(q)"; by striking all in lines 13 through 17; in line 18, by striking "(c)" and inserting "(r)"; in line 24, by striking "(a)" and inserting "(q)";

On page 228, in line 20, by striking "\$0" and inserting "No limit";

On page 230, by striking all in lines 19 through 22;

On page 231, in line 10, by striking "\$3,636,655" and inserting "\$4,062,950";

On page 255, following line 14, by inserting the following to read as follows:

"(f) In addition to the other purposes for which expenditures may be made by the university of Kansas medical center from the moneys appropriated from any special revenue fund for fiscal year 2010 or fiscal year 2011 as authorized by this or other appropriation act of the 2009 regular session of the legislature or by any appropriation act of the 2010 regular session of the legislature, expenditures shall be made by the university of Kansas medical center of the moneys appropriated from any special revenue fund for fiscal year 2010 or for fiscal year 2011 to provide for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for a capital improvement project to renovate the Hixon/Wahl east/Wahl west laboratory complex: *Provided*, That such capital improvement project is hereby approved for the university of Kansas medical center for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *Provided further*, That the university of Kansas medical center may make expenditures from the moneys received from the issuance of any such bonds for such capital improvement project: *Provided, however*, That expenditures from the moneys received from the issuance of any such bonds for such capital improvement project shall not exceed \$34,000,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project, credit enhancement costs and any required reserves for payment

of principal and interest on the bonds: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited and accounted for as prescribed by applicable bond covenants: *And provided further*, That debt service for any such bonds for such capital improvement projects shall be financed by appropriations from any appropriate special revenue fund or funds, including, but not limited to, money deposited in such fund or funds from amounts derived pursuant to K.S.A. 19-5001 et seq., and amendments thereto.”;

On page 258, following line 8, by inserting the following:

“(d) On the effective date of this act, notwithstanding the provisions of chapter 167 or 201 of the 2007 Session Laws of Kansas, chapter 131, 156, 159, 160, 164, 172 or 184 of the 2008 Session Laws of Kansas, 2009 House Substitute for Substitute for Senate Bill No. 23, or this or any other appropriation act or any other act of the 2009 regular session or any other statute and notwithstanding the provisions of state finance council resolution no. 07-572, the approval of the state finance council for the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto, for capital improvement projects to expand prison capacity, as set forth in state finance council resolution no. 07-572 pursuant to subsection (d) of section 185 of chapter 167 of the 2007 Session Laws of Kansas, and the authority of the Kansas development finance authority to issue any bonds on or after the effective date of this act to finance the cost of such capital improvement projects to expand prison capacity pursuant to such approval, are hereby modified as follows: (1) The limitation on the aggregate amount of revenue bonds authorized to be issued for capital improvement projects to expand prison capacity pursuant to subsection (d) of section 11 of chapter 184 of the 2008 Session Laws of Kansas is hereby decreased from \$19,525,000 to \$1,700,000 and (2) no moneys appropriated for the department of corrections or any correctional institution by chapter 131 or 184 of the 2008 Session Laws of Kansas, 2009 House Substitute for Substitute for Senate Bill No. 23, or this or any other appropriation act or any other act of the 2009 regular session for the fiscal years ending June 30, 2009, or June 30, 2010, shall be expended to authorize or enter into any contract or other agreement to initiate, implement or administer any actual construction work for any such capital improvement project to expand prison capacity prior to July 1, 2010, or to authorize any expenditure of any bond proceeds for any actual construction work for any such capital improvement project to expand prison capacity prior to July 1, 2010, or to authorize, request or otherwise provide for the issuance of any revenue bonds to finance any actual construction work for any such capital improvement project to expand prison capacity to commence, prior to July 1, 2010: *Provided*, That no bonds shall be issued by the Kansas development finance authority to finance any actual construction work for any such capital improvement project to expand prison capacity prior to July 1, 2010, and no money received as proceeds for any such revenue for any actual construction work for any such capital improvement project to expand prison capacity bonds shall be expended prior to July 1, 2010.”;

Also on page 258, in line 15, by striking “\$723,028” and inserting “\$797,198”;

On page 259, following line 16, by inserting the following:

“(b) On July 1, 2009, of the unencumbered balance in the land acquisition account of the state general fund in excess of \$100 as of June 30, 2009, the amount of \$57,717 is hereby reappropriated to the operating expenditures account of the attorney general—Kansas bureau of investigation for fiscal year 2010: *Provided*, That, if the unencumbered balance in the land acquisition account of the state general fund in excess of \$100 as of June 30, 2009, is less than \$57, 717, then any unencumbered balance in the land acquisition account of the state general fund in excess of \$100 as of June 30, 2009, is hereby reappropriated to the operating expenditures account of the attorney general—Kansas bureau of investigation for fiscal year 2010.”;

On page 261, in line 32, by striking “\$3,117,470” and inserting “\$2,617,470”;

On page 275, by striking all in lines 17 through 30 and inserting the following:

“Sec. 137. On July 1, 2009, K.S.A. 2008 Supp. 55-193, as amended by section 87 of 2009 House Substitute for Substitute for Senate Bill No. 23, is hereby amended to read as follows: 55-193. On July 15, 1996, and on the 15th day of each calendar quarter thereafter before July 1, 2016, the director of accounts and reports shall transfer \$100,000 from the state

general fund, \$100,000 from the state water plan fund established by K.S.A. 82a-951 and amendments thereto and \$100,000 from the conservation fee fund established by K.S.A. 55-143 and amendments thereto to the abandoned oil and gas well fund established by K.S.A. 55-192 and amendments thereto, except that: (a) No transfers shall be made pursuant to this section from the state general fund to the abandoned oil and gas well fund during state fiscal year 2009 or state fiscal year 2010; ~~and~~ (b) the aggregate of the transfers made pursuant to this section from the state water plan fund to the abandoned oil and gas well fund during state fiscal year 2009 shall not exceed \$320,000; and (c) *the aggregate of the transfers made pursuant to this section from the state water plan fund to the abandoned oil and gas well fund during state fiscal year 2010 shall not exceed \$288,000.*;

On page 278, in line 3, by striking “the effective date of this act” and inserting “July 1, 2009”; in line 36, preceding “subject” by inserting “and on June 1, 2009.”;

On page 280, in line 21, by striking “the amount equal to 50% of”; in line 29, preceding “(C)” by inserting “an amount equal to 50% of the maximum amount determined pursuant to subsection (g) shall be transferred from the state general fund to the business machinery and equipment tax reduction assistance fund on June 1, 2009, and”;

On page 281, in line 43, by striking “the effective date of this act” and inserting “July 1, 2009”;

On page 282, in line 37, preceding “subject” by inserting “and on June 1, 2009.”;

On page 284, in line 17, by striking “the amount equal to 50% of”; in line 25, preceding “(C)” by inserting “and an amount equal to 50% of the maximum amount determined pursuant to subsection (f) shall be transferred from the state general fund to the telecommunications and railroad machinery and equipment tax reduction assistance fund on June 1, 2009, and”;

On page 285, by striking all in lines 41 through 43;

By striking all on page 286;

On page 287, by striking all in lines 1 through 7 and inserting the following:

“Sec. 144. On July 1, 2009, K.S.A. 2008 Supp. 79-3425i, as amended by section 90 of 2009 House Substitute for Substitute for Senate Bill No. 23, is hereby amended to read as follows: 79-3425i. On January 15 and July 15 of each year, the director of accounts and reports shall transfer a sum equal to the total taxes collected under the provisions of K.S.A. 79-6a04 and 79-6a10, and amendments thereto, and credited to the state general fund during the six months next preceding the date of transfer, from the state general fund to the special city and county highway fund, created by K.S.A. 79-3425, and amendments thereto, except that: (1) Such transfers are subject to reduction under K.S.A. 75-6704, and amendments thereto; (2) the amount of moneys transferred from the state general fund to the special city and county highway fund during state fiscal year 2009 on each such date shall not exceed \$3,330,543.50; and (3) the amount of moneys transferred from the state general fund to the special city and county highway fund during state fiscal year 2010 on each such date shall not exceed ~~\$5,031,892~~ \$2,515,916; and (4) notwithstanding the provisions of K.S.A. 79-3425c and ~~75-3425i~~ 79-3425i, and amendments thereto, or any other statute, the aggregate amount of \$6,661,087 of the moneys credited to the special city and county highway fund shall be paid on or before April 14, 2009, by the state treasurer in accordance with the following to the following counties in the amounts specified respectively therefor with the requirement that the moneys received by each such county shall be deposited and administered in accordance with K.S.A. 79-3425c, and amendments thereto, including any redistributions provided for by that statute: Barton county, \$174,544.98; Butler county, \$890,898.90; Chautauqua county, \$7,293.76; Clay county, \$15,533.75; Comanche county, \$15,525.56; Cowley county, \$151,493.36; Douglas county, \$1,152,561.96; Finney county, \$38,376.16; Geary county, \$41,101.83; Grant county, \$11,827.23; Lane county, \$6,986.21; Leavenworth county, \$655,874.14; Ness county, \$13,000.51; Rice county, \$9,780.91; Russell county, \$18,610.55; Shawnee county, \$3,299,659.69; Sherman county, \$29,689.72; Stevens county, \$7,532.41; Trego county, \$4,257.37; and Wyandotte county, \$116,537.47, which shall be for the purpose of providing such counties, cities and other local governmental entities the amounts that were not paid as directed by statute during state fiscal years 2006, 2007 and 2008. All transfers under this section shall be considered to be demand transfers from the state general fund except that all such transfers during the fiscal years ending June 30, ~~2009~~

2010, and June 30, ~~2010~~ 2011, shall be considered to be revenue transfers from the state general fund. Any transfers of moneys from the state general fund to the special city and county highway fund during the state fiscal year ending June 30, 2009, pursuant to the provisions of K.S.A. 79-3425i, and amendments thereto, or any other statute, that have been made prior to the effective date of this act shall be reversed by the director of accounts and reports and reversing entries shall be entered upon the accounting records of the state treasurer therefor.

Sec. 145. On July 1, 2009, K.S.A. 2008 Supp. 79-4801, as amended by section 92 of 2009 House Substitute for Substitute for Senate Bill No. 23, is hereby amended to read as follows: 79-4801. There is hereby created the state gaming revenues fund in the state treasury. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act and all expenditures from the state gaming revenues fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be allocated and credited monthly to the funds and in the amounts specified by this act except that the total of the amounts credited to such funds in any one fiscal year pursuant to this act shall not exceed \$50,000,000, except that the total of the amounts credited to such funds for fiscal year 2009, pursuant to this act shall not exceed \$48,059,846. All amounts credited to such fund in any one fiscal year which are in excess of \$50,000,000 shall be transferred and credited to the state general fund on July 15, 1996, and June 25, 1997, and each year thereafter on June 25, except that: (a) All amounts credited to the state gaming revenues fund in fiscal year 2009 which are in excess of \$48,059,846 shall be transferred and credited to the state general fund on July 15, 2009, and shall be recorded and accounted for as receipts to the state general fund for fiscal year 2009; ~~and~~ (b) all amounts credited to the state gaming revenues fund in fiscal year 2010 which are in excess of \$50,000,000 shall be transferred and credited to the state general fund on July 15, 2010, and shall be recorded and accounted for as receipts to the state general fund for fiscal year 2010; *and (c) all amounts credited to the state gaming revenues fund in fiscal year 2011 which are in excess of \$50,000,000 shall be transferred and credited to the state general fund on July 15, 2011, and shall be recorded and accounted for as receipts to the state general fund for fiscal year 2011.*

Sec. 146. On July 1, 2009, K.S.A. 2008 Supp. 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, is hereby amended to read as follows: 82a-953a. During each fiscal year, the director of accounts and reports shall transfer \$6,000,000 from the state general fund to the state water plan fund created by K.S.A. 82a-951, and amendments thereto, one-half of such amount to be transferred on July 15 and one-half to be transferred on January 15, except that (1) such transfers during each fiscal year commencing after June 30, 2008, are subject to reduction under K.S.A. 75-6704, and amendments thereto, ~~and~~ (2) the total amount of moneys transferred from the state general fund to the state water plan fund during the fiscal year ending June 30, 2009, shall not exceed \$2,000,000, *and (3) the total amount of moneys transferred from the state general fund to the state water plan fund during the fiscal year ending June 30, 2010, shall not exceed \$3,295,432.* On the effective date of this act, the director of accounts and reports shall transfer the amount in excess of \$2,000,000 which was transferred from the state general fund to the state water plan fund prior to the effective date of this act during the fiscal year ending June 30, 2009, as certified by the director of the budget to the director of accounts and reports to the state general fund. All transfers under this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal years ending June 30, 2008, and June 30, 2009, shall be considered revenue transfers from the state general fund.”;

Also on page 287, in line 8, by striking “the effective date of this act” and inserting “July 1, 2009”; in line 12, following “55-193,” by inserting “as amended by section 87 of 2009 House Substitute for Substitute for Senate Bill No. 23,”; in line 13, by striking “79-4801 and 82a-953a” and inserting “as amended by section 90 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-4801, as amended by section 92 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23,”;

On page 289, by striking all in lines 15 through 43;

By striking all on page 290;

On page 291, by striking all in lines 1 through 26;

By renumbering the remaining sections accordingly;

In the title, in line 13, by striking "and" and inserting a comma; in line 18, by striking all following "amending"; in line 19, by striking "Kansas,"; in line 20, following "55-193," by inserting "as amended by section 87 of 2009 House Substitute for Substitute for Senate Bill No. 23,"; in line 24, by striking "79-4801 and 82a-953a" and inserting "as amended by section 90 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-4801, as amended by section 92 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-953a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23,";

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

JAY SCOTT EMLER

CAROLYN MCGINN

LAURA KELLY

Conferees on part of Senate

KEVIN W. YODER

JASON P. WATKINS

BILL FEUESBORN

Conferees on part of House

Senator Emler moved the Senate adopt the Conference Committee Report on **S Sub for HB 2354**.

On roll call, the vote was: Yeas 35, Nays 5, Present and Passing 0, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt V, Schodorf, Steiner, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Holland, Huelskamp, Pilcher-Cook, Pyle, Schmidt D.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote aye on the budget conference committee to move the process forward in a very difficult time. Every area in the budget has been cut, including education—\$66 over 2 years on the base, and 1% special education. We did not fund the CPIU and are below the promised 4th year for the education plan. All schools are cutting budgets. Small and rural schools will especially be affected. This is really a total of 5.1% cut instead of .1% cut. A cut for special education is really a cut on the general fund, too. I am concerned that with the decrease on the general fund, our stimulus dollars and the waiver for special education may be affected. However the cuts could have been worse and that is why I voted yes.—JEAN SCHODORF

Senators Abrams, Barnett, Teichman and Umbarger requests the record to show they concur with the "Explanation of Vote" offered by Senator Schodorf on **S Sub for HB 2364**.

REPORT ON ENGROSSED BILLS

Sub SB 184 reported correctly engrossed March 30, 2009.

SB 60 reported correctly engrossed March 31, 2009.

Also, **SB 9, SB 39, SB 253** correctly re-engrossed March 31, 2009.

REPORT ON ENROLLED BILLS

SB 1, SB 64, SB 72, SB 85, SB 163, SB 178 reported correctly enrolled, properly signed and presented to the Governor on March 31, 2009.

COMMITTEE OF THE WHOLE

On motion of Senator D. Schmidt, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Brungardt in the chair.

On motion of Senator Brungardt the following report was adopted:

HCR 5015 be adopted.

HB 2221 be amended by adoption of the committee amendments, on March 25, 2009, be further amended by motion of Senator Masterson, on page 4, following line 13, by inserting the following:

“(i) “Outdoor recreational facility” means a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and not normally open to the general public.”;

Also on page 4, following line 21, by inserting the following:

“(k) “Private club” means an outdoor recreational facility operated primarily for the use of its owners, members and their guests that in its ordinary course of business is not open to the general public for which use of its facilities has substantial dues or membership fee requirements for its members.”;

On page 5, following line 7, by inserting the following:

“(q) “Substantial dues or membership fee requirements” means initiation costs, dues or fees proportional to the cost of membership in similarly-situated outdoor recreational facilities that are not considered nominal and implemented to otherwise avoid or evade restrictions of a statewide ban on smoking.”;

And by relettering subsections accordingly;

On page 6, in line 23, by striking “and”; in line 29, by striking the period and inserting “; and

(9) a private club in designated areas where minors are prohibited.”;

On page 7, following line 38, by inserting the following:

“New Sec. 6. The director of alcoholic beverage control is hereby authorized to promulgate rules and regulations to insure any exemption from the statewide ban on smoking is bona fide and the entity seeking such exemption is not inappropriately seeking to circumvent the smoking ban created under this act.”;

And by renumbering sections accordingly, and **HB 2221** be passed as further amended.

Senator Masterson made a second motion to further amend **HB 2221**, on page 4, in line 22, followed “owned” by inserting “, leased”;

On page 6, by striking all in lines 11 through 13;

And by renumbering subsections accordingly

The motion failed and the amendment was rejected.

Upon the showing of five hands a roll call vote was requested:

On roll call, the vote was: Yeas 17, Nays 22, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Brownlee, Bruce, Colyer, Donovan, Francisco, Huelskamp, Kelsey, Masterson, McGinn, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Schmidt D, Taddiken, Wagle.

Nays: Apple, Barnett, Brungardt, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kullala, Lee, Lynn, Marshall, Morris, Owens, Reitz, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Emler.

The motion failed and the amendment was rejected.

A motion by Senator Wagle to further amend **HB 2221** failed and the following amendment was rejected: on page 6, following line 29, by inserting the following:

“(e) If a city or county currently regulates smoking within its boundaries, such local regulation shall control to the extent of any inconsistency between such regulation and this act.”;

On page 14, in line 24, preceding “21-4016” by inserting “21-4013.”;

In the title, in line 17, following “K.S.A.” by inserting “21-4013.”

Upon the showing of five hands a roll call vote was requested:

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

Yeas: Abrams, Brownlee, Bruce, Donovan, Huelskamp, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken, Wagle.

Nays: Apple, Barnett, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wysong.

The motion failed and the amendment was rejected.

A second motion by Senator Wagle to further amend **HB 2221** failed and the following amendment was rejected: on page 2, by striking all in lines 30 through 43;

By striking all on pages 3 through 7;

On page 8, by striking all in lines 1 through 34 and inserting the following:

“New Section 1. (a) The provisions of this section shall be known and may be cited as the Kansas nonsmoker protection act.

(b) As used in this section:

(1) “Commercial motor vehicle” means a motor vehicle used on a highway in interstate or intrastate commerce to transport property when the vehicle:

(A) Has a gross weight rating, or gross vehicle weight or gross combination weight of 10,001 pounds or more; and

(B) is not used in transporting material found by the United States secretary of transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the United States secretary of transportation under 49 C.F.R., subtitle B, chapter I, subchapter C, and is subject to the provisions of 49 C.F.R. 397.13 as enacted on December 12, 1994.

(2) “Employee” means any person who performs any service on a full-time, part-time or contracted basis whether or not the person is denominated an employee, independent contractor or otherwise and whether or not the person is compensated or is a volunteer;

(3) “employer” means a person, business, partnership, association, the state of Kansas and its political subdivisions, corporation, including a municipal corporation, trust or non-profit entity that employs the services of one or more individual persons;

(4) “enclosed area” means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows, exclusive of doorways, which extend from the floor to the ceiling. “Enclosed area” includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means;

(5) “medical care facility” means a doctor’s office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto;

(6) “person” means an individual, partnership, corporation, limited liability company, entity, association, governmental subdivision or unit of a governmental subdivision or a public or private organization of any character;

(7) “physically separated” means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows, exclusive of door or passageway, and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas;

(8) “place of employment” means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private residence or vehicle is not a “place of employment” unless it is used as a licensed child care, adult day care or medical care facility;

(9) “public place” means an enclosed area of any place which the public is invited or in which the public is permitted, including airports, banks, common areas of multi-family housing facilities, such as apartment buildings and condominiums, entertainment venues, medical care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food establishments, retail service establish-

ments, retail stores, schools, shopping malls, sports facilities, theaters and waiting rooms. A private residence or vehicle is not a "public place" unless it is used as a licensed child care, adult day care or medical care facility, taxi or other commercial vehicle for hire;

(10) "retail tobacco store" means a retail store that derives its largest category of sales from tobacco products and accessories. "Retail tobacco store" does not include grocery stores, convenience stores, gas stations, general retailers or similar retail establishments;

(11) "smoking" means inhaling, exhaling, burning or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product;

(12) "sports facilities" means enclosed areas of sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, billiard halls, bowling alleys and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition or witness sporting events;

(13) "bar" means an establishment that is primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets; and

(14) "cigar bar" means an enclosed area that holds itself out to the public as a cigar bar, and in which:

(A) Access is denied to any person under the legal age for the purchase or sale of tobacco;

(B) cigars or tobacco products or both are sold for consumption on the premises; and

(C) sales of cigars and all tobacco products and sales or rentals of cigar accessories account for not less than 5% of the annual gross revenues of the business.

(c) Smoking is prohibited in all public places and places of employment within the state of Kansas, except the following:

(1) Private residences, except when used as a licensed child care, adult day care or medical care facility;

(2) hotel and motel rooms that are rented to guests and are designated as smoking rooms;

(3) retail tobacco stores that prohibit minors on the premises;

(4) nonenclosed areas of public spaces, outdoor patios, as long as tobacco smoke is not reasonably expected to enter areas where smoking is prohibited;

(5) bars, cigar bars, a class A club licensed pursuant to K.S.A. 41-2601 et seq., and amendments thereto, and a class B club licensed pursuant to K.S.A. 41-2601 et seq., and amendments thereto;

(6) private automobiles, except when used for the public transportation of children or for transportation by a medical care facility or day care facility or when used as a taxi or other commercial vehicle for hire;

(7) all premises of any manufacturer, importer or wholesaler of tobacco products, of any tobacco leaf dealer or processor and all tobacco storage facilities;

(8) physically separate smoking area or areas of a restaurant if the owner chooses to provide such an area;

(9) a restaurant which has been designated by the owner as a totally smoking area, prohibits the entry of persons under 18 years of age at all times and complies with the notice provisions set out in subsection (f)(4);

(10) any casino or other establishment which operates class two or class three games, as defined in the 1991 version of 25 U.S.C. 2703;

(11) a benefit cigar dinner or other smoking event conducted specifically and exclusively for charitable purposes;

(12) that portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated; and that portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests; and

(13) any Kansas soldiers' home established pursuant to K.S.A. 76-1901 et seq., and amendments thereto, or veterans' home established pursuant to K.S.A. 76-1951 et seq., and amendments thereto.

(d) To protect the private property rights of all persons who own bars and retail tobacco stores in this state, the state of Kansas finds and determines a single statewide standard for smoking in enclosed areas that are also public places to be a matter of statewide concern. It is declared that this section preempts all municipal and county laws, charters, ordinances and rules and regulations relating to smoking in the locations set forth in subsection (b).

(e) Notwithstanding any other provision of this section, an owner, operator, manager or other person or entity in control of an establishment, facility or outdoor area may declare that entire establishment, facility or outdoor area as a nonsmoking place.

(f) Posting of signs and ashtray removal:

(1) "No smoking" signs or the international "no smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, no smaller than 6 inches by 6 inches, shall be clearly and conspicuously posted by the owner, operator, manager or other person in control of that place identifying where smoking is prohibited by this section and where complaints regarding violations may be registered;

(2) every public place and place of employment where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited;

(3) all ashtrays shall be removed from any premise where smoking is prohibited by this section by the owner, operator, manager or other person having control of the area; and

(4) restaurants which are designated as totally smoking as provided in subsection (c)(11) shall be conspicuously posted on the outside of the business "This business is a totally smoking facility. Persons under 18 years of age are prohibited. Persons entering are advised that smoking is permitted at all locations in this facility".

(g) No employer may discharge or retaliate against an employee because that employee exercised any rights afforded by this section or reports or attempts to prosecute a violation of this section.

(h) An owner, manager, operator or employee of a place regulated by this section shall inform any person who is smoking in violation of this section that smoking is not allowed and request that the person stop smoking immediately.

(i) This section does not create any new private right of action nor does it extinguish any existing common law causes of action.

(j) Any person found guilty of smoking in violation of this section is guilty of a misdemeanor punishable by a fine of not less than \$50 and not more than \$300 for each violation. Any person found guilty of failing to post signs as required by this act, is guilty of a misdemeanor punishable by a fine of not more than \$50. In addition, the department of health and environment, or local department of health, may institute an action in any court of competent jurisdiction to enjoin repeated violations of this act.

(k) If any provision of this section or the application thereof to any person, thing or circumstance is held invalid, such invalidity shall not affect the provisions of application of this section that can be given effect without the invalid provision or application, and to this end the provisions of the section are declared to be severable.

(l) If a city or county currently regulates smoking within its boundaries, such local regulation shall control to the extent of any inconsistency between such regulation and this section.";

On page 14, in line 21, preceding "K.S.A." by inserting "K.S.A. 21-4009, 21-4010, 21-4011, 21-4012, 21-4013 and 21-4014 and"; by striking all in lines 23 through 25;

And by renumbering sections accordingly;

In the title, in line 14, by striking "concerning crimes and punishments;"; in line 15, by striking all following "amending"; in line 16, by striking all preceding "K.S.A."; in line 17, by striking "21-4016 and 21-"; in line 18, by striking "4017" and inserting "21-4009, 21-4010, 21-4011, 21-4012, 21-4013 and 21-4014"

Upon the showing of five hands a roll call vote was requested:

On roll call, the vote was: Yeas 11, Nays 27, Present and Passing 1, Absent or Not Voting 1.

Yeas: Abrams, Brownlee, Bruce, Huelskamp, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken, Wagle.

Nays: Apple, Barnett, Brungardt, Colyer, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Present and Passing: Donovan.

Absent or Not Voting: Steineger.

The motion failed and the amendment was rejected.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **HB 2221**; **HCR 5015** were advanced to Final Action and roll call.

HB 2221, An act concerning crimes and punishments; relating to smoking and cigarette sales; amending K.S.A. 21-3105, 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and K.S.A. 2008 Supp. 79-3301 and 79-3321 and repealing the existing sections; also repealing K.S.A. 21-4016 and 21-4017.

On roll call, the vote was: Yeas 25, Nays 15, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barnett, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Kelly, Kelsey, Kultala, Lee, Lynn, McGinn, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schodorf, Teichman, Umbarger, Vratil, Wysong.

Nays: Abrams, Apple, Brownlee, Bruce, Holland, Huelskamp, Marshall, Masterson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Steineger, Taddiken, Wagle.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: **HB 2221** represents an increased willingness on behalf of this body to subvert the property rights of individuals and undermine the lawful authority of local office holders to implement policy that addresses the needs of their respective localities.

During the heat of debate a great deal of rhetoric was exchanged questioning the motives of proponents and opponents alike. This rhetoric focused on the apparent inconsistencies within the bill itself as proof of some implied misdeeds.

These inconsistencies are brought about not by some sinister motive but as a reflection of an unavoidable conclusion; this body is attempting to legislate something that cannot be codified into a statewide policy. As an unintended consequence, we do not so much create policy, as we select winners and losers.

The legislature has no business acting in an area where it has no compelling interest at stake. If any action is required, it ought to be done by localities, which are in a far superior position to craft any necessary ordinances to meet the real, and not speculative, needs of their constituencies. The legislature, on the other hand, ought to exercise better discretion by ignoring legislation that is fueled by political correctness and erodes the principles of limited governance.—TERRY BRUCE

Senators Ostmeyer and Petersen request the record to show they concur with the “Explanation of Vote” offered by Senator Bruce on **HB 2221**.

MR. PRESIDENT: I vote aye on **HB 2221** and would like to explain my vote. In past years, I have always generally supported local government initiatives when deciding an issue that affects as many local businesses as the smoking ban. After being assigned to social and rehabilitation services, I quickly discovered that approximately 350,000 individuals in a state with a 2.7 million population are on the state’s system either through Medicaid or waivers.

This year we are making significant cuts to our budget. We must begin to change how we do business and promote preventive policies that decrease the cost our state incurs in supplying needed human services to our constituency.

In beginning this process an effort was made to keep the bill as it came out of committee, which I supported. I was disappointed in the amendment process when some voted to allow smoking in casinos but yet restrict it for other private businesses.—CAROLYN MCGINN

HCR 5015, A CONCURRENT RESOLUTION directing the State Board of Education to take certain actions in relation to children with reading problems, including dyslexia.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The resolution was adopted.

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **HB 2097**, requests a conference and appoints Representatives Colloton, Patton and McCray-Miller as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 51** and has appointed Representatives Schwartz, Kinzer and Svaty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 254** and has appointed Representatives Schwartz, M. Holmes and Garcia as conferees on the part of the House.

On motion of Senator D. Schmidt, the Senate recessed until 3:00 p.m.

AFTERNOON-SESSION

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

CHANGE OF REFERENCE

The President withdrew **HB 2130** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on **Transportation**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Brungardt moved the Senate concur in house amendments to **SB 29**.

SB 29, An act concerning the state board of technical professions; relating to licensure; amending K.S.A. 74-7003, 74-7009, 74-7013, 74-7018, 74-7021, 74-7022, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7034, 74-7036 and 74-7041 and repealing the existing sections; also repealing K.S.A. 74-7043, 74-7044 and 74-7045.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Pyle.

The Senate concurred.

Senator Brungardt moved the Senate concur in house amendments to **SB 53**.

SB 53, An act concerning cereal malt beverages; relating to discretion by cities in granting and suspending or revoking a retailer's license; amending K.S.A. 2008 Supp. 41-2703 and 41-2708 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-

Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Apple moved the Senate concur in house amendments to **SB 80**.

SB 80, An act concerning cities; dealing with certain elections; relating to cities' power to relinquish authority to regulate natural gas and water utilities to the state corporation commission; amending K.S.A. 15-809 and 66-104e and repealing the existing sections.

On roll call, the vote was: Yeas 37, Nays 3, Present and Passing 0, Absent or Not Voting 0.

Yeas: Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Abrams, Faust-Goudeau, Haley.

The Senate concurred.

Senator Reitz moved the Senate concur in house amendments to **H Sub for SB 91**.

H Sub for SB 91, An act concerning community planning; relating to placement of sexually violent predators; zoning; dealing with vesting of development rights; amending K.S.A. 12-764 and K.S.A. 2008 Supp. 59-29all and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Owens moved the Senate concur in house amendments to **SB 237**.

SB 237, An act concerning crimes, punishment and criminal procedure; amending K.S.A. 21-3826 and K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

Senator Teichman moved the Senate concur in house amendments to **SB 275**.

SB 275, An act concerning vehicles; relating to implements of husbandry; concerning all-terrain vehicles; amending K.S.A. 84-2a-104 and K.S.A. 2008 Supp. 8-126, 8-197, 8-1402a and 84-9-311 and repealing the existing sections.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Senate concurred.

ORIGINAL MOTION

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on **S Sub for HB 2097**.

The President appointed Senators Owens, D. Schmidt and Haley as conferees on the part of the Senate.

On motion of Senator Reitz, the Senate acceded to the request of the House for a conference on **HB 2155**.

The President appointed Senators Reitz, Wagle and Kultala as conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

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

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

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

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

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

And by renumbering the remaining paragraphs accordingly;

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

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

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

And by renumbering the remaining paragraphs accordingly;

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

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

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

THOMAS C. OWENS

DEREK SCHMIDT

DAVID HALEY

Conferees on part of Senate

PAT COLLTON

JOE PATTON

MELODY MCCRAY-MILLER

Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on **S Sub for HB 2096**.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2131**, submits the following report:

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

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

By striking all on pages 2 and 3 and inserting the following:

“Section 1. The secretary of transportation is hereby authorized to establish an intermodal transportation revolving fund to provide assistance to governmental units for intermodal transportation projects.

Sec. 2. As used in sections 1 through 7, and amendments thereto:

(a) “Cost” means as applied to any qualified project, any or all costs, whenever incurred, approved by the department, for carrying out a qualified project;

(b) “department” means the department of transportation, established under K.S.A. 75-5001, and amendments thereto;

(c) “fund” means the Kansas intermodal transportation revolving fund established by section 4, and amendments thereto;

(d) “governmental unit” means any town, city, district, county, commission, agency, authority, board or other instrumentality of the state or of any of its political subdivisions, including any combination thereof, which has a qualified project located within the boundaries of such entity or within the jurisdiction of such entity;

(e) “intermodal facility” means land, improvements, personal property and fixtures developed primarily to handle the transfer, storage and distribution of freight through railway and trucking operations with a cost in excess of \$150,000,000;

(f) “intermodal transportation area” means an area including an intermodal facility and such additional area certified by the secretary to be impacted by such intermodal facility;

(g) “intermodal transportation project” means any bridge, culvert, highway, road, street, underpass, railroad crossing or combination thereof located within an intermodal transportation area;

(h) “private enterprise” means a private person or entity that has entered into a contract with a governmental unit to design, finance, construct or operate a qualified project that is within the jurisdiction of such public authority;

(i) “project” means the acquisition, construction, improvement, repair, rehabilitation, maintenance or extension of transportation facilities;

(j) “project costs” means all costs or expenses which are necessary or incident to a qualified project and which are directly attributable thereto, including, but not limited to, land acquisition;

(k) “qualified borrower” means any governmental unit or private enterprise which is authorized to construct, operate or own a qualified project;

(l) “qualified project” means any public or private intermodal transportation project, including, without limitation, the construction, reconstruction, resurfacing, restoration, rehabilitation or replacement of public or private intermodal transportation projects within the state, that is determined by the secretary to be of statewide as well as local importance and by the city or county in which the qualified project is located to be of local importance;

(m) “revenues” means when used with respect to the department, any receipts, fees, revenues or other payments received or to be received by the department under sections 1 through 7, and amendments thereto; and

(n) “secretary” means the secretary of the department of transportation.

Sec. 3. (a) The secretary shall administer the provisions of sections 1 through 7, and amendments thereto, and shall be responsible for the administration and management of the fund, and shall have the power to enter into agreements and contracts and to transfer money between the state highway fund and the fund as required to effect the purposes of sections 1 through 7, and amendments thereto.

(b) The secretary shall adopt rules and regulations, to carry out the purposes and provisions of sections 1 through 7, and amendments thereto.

Sec. 4. (a) There is hereby established in the state treasury a fund to be known as the Kansas intermodal transportation revolving fund which shall consist of the following:

(1) Amounts appropriated or otherwise made available by the legislature for the purposes of the fund;

(2) the proceeds, if any, from the sale of bonds issued pursuant to section 5, and amendments thereto, for the purposes of the fund to the extent provided in any agreement entered into between the secretary and the Kansas development finance authority;

(3) amounts of repayments made by qualified borrowers of loans received under sections 1 through 7, and amendments thereto, together with payments of interest thereon, in

accordance with agreements entered into between such qualified borrowers and the secretary;

- (4) amounts earned on moneys in the fund;
 - (5) amounts contributed or otherwise made available by any public or private entity for use in effectuating the purposes of the fund;
 - (6) amounts transferred by order of the secretary from the state highway fund; and
 - (7) any other amounts as may be made available for purposes of the fund.
- (b) Subject to the provisions of sections 1 through 7, and amendments thereto, expenditures from the fund shall be made for the following purposes:
- (1) For the payment of the principal, including sinking fund payments of and premium, if any, and interest on bonds issued pursuant to sections 1 through 7, and amendments thereto;
 - (2) for providing financial assistance to qualified borrowers to finance qualified projects;
 - (3) for the maintenance of, or provision for, any reserves, additional security, insurance or other form of credit enhancement to secure such bonds required or provided for in any trust agreement entered into pursuant to sections 1 through 7, and amendments thereto;
 - (4) to guarantee, purchase insurance or provide other credit enhancement for bonds of qualified borrowers issued to finance the costs of qualified projects;
 - (5) to provide reserves for or otherwise secure bonds issued pursuant to sections 1 through 7, and amendments thereto, and to provide insurance or other credit enhancement for such bonds;
 - (6) to provide reserves for, or to otherwise secure, amounts payable by qualified borrowers on loans made by and leases with the department in the event of default by a particular qualified borrower or, on a parity basis, by any qualified borrower;
 - (7) to provide a subsidy for, or to otherwise assist, qualified borrowers in the payment of debt service costs on loans made by the department hereunder;
 - (8) for administrative costs of the fund or for any of the foregoing;
 - (9) the transfer of money by order of the secretary to the state highway fund; and
 - (10) the transfer of money by order of the secretary to the state general fund.

Sec. 5. (a) The activities of the department in administering and performing the powers, duties and functions prescribed by the provisions of sections 1 through 7, and amendments thereto, are hereby approved for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto, and the authorization of issuance of bonds by the Kansas development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto.

(b) The debt service for any bonds issued pursuant to this section shall be paid from revenues, including loan repayments received from qualified borrowers under agreements entered into pursuant to sections 1 through 7, and amendments thereto, or from any other amounts available in the Kansas intermodal transportation revolving fund pursuant to section 4, and amendments thereto, including appropriations of moneys from the state general fund.

(c) Neither the state nor the department shall have the power to pledge the full faith and credit or taxing power of the state of Kansas for such purposes and any payment by the department for such purpose shall be subject to and dependent on appropriations by the legislature. Any obligation of the state or the department for payment of debt service on bonds issued pursuant to this section shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the Kansas constitution.

(d) No governmental unit is authorized to pledge its full faith and credit or its taxing power for the purpose of repayment of any loan under this act.

Sec. 6. (a) Qualified borrowers which desire assistance in the form of a loan, credit enhancement or grant under sections 1 through 7, and amendments thereto, shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary.

(b) The secretary may enter into agreements with any qualified borrower for payment of all or a part of project costs. All moneys received by the secretary pursuant to such agreements shall be deposited in the Kansas intermodal transportation revolving fund.

(c) The secretary shall provide any governmental unit, upon its request, with technical advice and assistance regarding a project or an application for assistance. The secretary may assess reasonable fees for providing such assistance.

(d) Any governmental unit may enter into agreements with the secretary and may accept assistance as provided in this section when so authorized by its governing body.

Sec. 7. (a) Upon the failure of a governmental unit to meet the repayment terms and conditions of an agreement, the secretary may order the state treasurer to pay to the fund such portion of the governmental unit's share of the special city and county highway fund as may be necessary to meet the terms of the agreement. This subsection shall not apply if the source of repayment of a loan with a governmental unit, as identified in the agreement, is not received by such governmental unit prior to the loan repayment date.

(b) Any loans received by a governmental unit under the provisions of sections 1 through 7, and amendments thereto, shall be construed to be bonds for the purposes of K.S.A. 10-1116, and amendments thereto, and the amount of such loans shall not be included within any limitation on the bonded indebtedness of the governmental unit.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all in lines 10 through 13 and inserting the following:
 “AN ACT concerning transportation; relating to intermodal transportation projects, and providing for the financing thereof.”;

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

DWAYNE UMBARGER
 BOB MARSHALL
 KELLY KULTALA
Conferees on part of Senate

GARY K. HAYZLETT
 JENE VICKREY
 MARGARET LONG
Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2131**.

On roll call, the vote was: Yeas 36, Nays 3, Present and Passing 1, Absent or Not Voting 0.

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Holland, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, Schmidt D, Schmidt V, Schoendorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Huelskamp, Pilcher-Cook, Pyle.

Present and Passing: Francisco.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2134**, submits the following report:

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

On page 1, following line 14, by inserting the following:

“New Section 1. (a) On and after January 1, 2010, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than 20,000 pounds who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one support Kansas arts license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper regis-

tration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas arts commission, created under K.S.A. 74-5202, and amendments thereto, may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment to such commission derived from this section shall be credited to the Kansas arts commission special gifts fund and, shall be used in accordance with the provisions of K.S.A. 74-5204, and amendments thereto. Any motor vehicle owner or lessee may annually apply to the commission for the use of such logo. Upon annual application and payment to the commission in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each license plate to be issued, the commission shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration.

(c) Any applicant for a support Kansas arts license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of motor vehicles, and any applicant for the support Kansas arts license plates shall provide the annual logo use authorization statement provided for in subsection (b). Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or support Kansas arts license plate issued under this section shall be transferable to any other person.

(e) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides the annual logo use authorization statement provided for in subsection (b). If such logo use authorization statement is not presented at the time of registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the support Kansas arts license plate to the county treasurer of such person's residence.

(f) The Kansas arts commission shall:

- (1) Pay the initial cost of silk-screening for such support Kansas arts license plates; and
- (2) provide to all county treasurers a toll-free telephone number where applicants can call the Kansas arts commission for information concerning the application process or the status of their license plate application.

(g) The Kansas arts commission, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

Sec. 2. K.S.A. 2008 Supp. 8-132 is hereby amended to read as follows: 8-132. (a) Subject to the provisions of this section and K.S.A. 8-1,125, and amendments thereto, the division of vehicles shall furnish to every owner whose vehicle shall be registered one license plate for such vehicle. Such license plate shall have displayed on it the registration number assigned to the vehicle and to the owner thereof, the name of the state, which may be abbreviated, and the year or years for which it is issued. The same type of license plates shall be issued for passenger motor vehicles, rented without a driver, as are issued for private passenger vehicles.

(b) During calendar year 1975 commencing on the effective date of this act, and during every fifth calendar year thereafter, the division of vehicles shall furnish one license plate for any type of vehicle an owner registers or has the registration thereof renewed, but during the succeeding four-year period following calendar year 1975 and during the succeeding four-year period following every fifth calendar year subsequent to 1975, the division of vehicles shall not furnish any license plate for the renewal of a vehicle's registration. During calendar year 1976 and during each calendar year thereafter in which a license plate is not issued for the renewal of registration of a vehicle, the division of vehicles shall furnish one decal for the license plate issued for a vehicle as provided in K.S.A. 8-134, and amendments thereto, for each registration and renewal of registration of such vehicle. Notwithstanding

the foregoing provisions of this subsection, whenever, in the discretion of the director of vehicles, it is determined that the license plates currently being issued and displayed are not deteriorating to the extent that their replacement is warranted, the director may adopt rules and regulations to extend the five-year issuance cycle provided for in this subsection by one year at a time, and in the same manner the director may further extend such cycle by one year at a time, successively as the director determines appropriate. If the cycle is extended at the expiration of the extended term, new license plates shall again be issued in the manner and for the term provided in such rules and regulations, except that the owner of a motor vehicle currently registered may continue to display the license plate currently being issued and displayed for a period not to exceed three registration years from the date of the expiration of the extended term. The division shall furnish one decal for each such license plate in accordance with the provisions of this subsection.

(c) Two personalized license plates may be issued to any owner or lessee of a passenger vehicle or a truck licensed for a gross weight of not more than 20,000 pounds, who makes proper application to the division of vehicles not less than 60 days prior to such owner's or lessee's renewal of registration date. Such application shall be on a form prescribed by the division and accompanied by a fee of \$40, which shall be in addition to any other fee required to renew the registration of such passenger vehicle under the laws of this state. One such personalized license plate shall be displayed on the rear of the vehicle and, at the option of the owner or lessee, the other license plate may be displayed on the front of the vehicle, except that no registration decal shall be issued pursuant to K.S.A. 8-134, and amendments thereto, for any such license plate displayed on the front of such vehicle. One personalized license plate may be issued to any owner of a motorcycle upon proper application in the same manner provided in this subsection (c) for passenger vehicles and trucks. The \$40 fee shall be paid only once during the registration period for which such license plates were issued, and any subsequent renewals during the registration period shall be subject only to the registration fee prescribed by K.S.A. 8-143, and amendments thereto. The division shall design distinctive, personalized license plates to be issued which shall contain not more than seven letters or numbers on truck or passenger vehicle license plates and not more than five letters or numbers on motorcycle license plates, or a combination thereof, to be designated by the applicant in lieu of the letters and numbers required by K.S.A. 8-147, and amendments thereto, other than the letters required to designate the county in which such vehicle is registered. Unless the letters or numbers designated by the applicant have been assigned to another vehicle of the same type registered in the same county, or unless the letters or numbers designated by the applicant have a profane, vulgar, lewd or indecent meaning or connotation, as determined by the director of vehicles, the division shall assign such letters or numbers to the applicant's vehicle, and the letters or numbers, or combination thereof, so assigned shall be deemed the registration number of such vehicle. Subject to the foregoing provisions, all license plates issued under this section shall be manufactured in accordance with K.S.A. 8-147, and amendments thereto. Such license plates shall be issued for a registration period of five years commencing in 1985 and each five years thereafter.

The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act, including, without limitation, rules and regulations concerning (1) the procedure for insuring that duplicate license plates are not issued ~~in the same county throughout the state~~, (2) the procedure for reserving distinctive license plates for the purpose of obtaining the same on each annual renewal of registration, (3) the procedure for allowing the transfer of personalized license plates from one vehicle to another for which such license plates were originally issued, when the title to the original vehicle has not been transferred and the name or names of the owner or owners listed on the titles to both vehicles are identical, and (4) procedures necessary to coordinate this act with other laws of this state governing registration of vehicles. The director of vehicles shall remit all moneys received by the division of vehicles under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

Sec. 3. K.S.A. 8-160 is hereby amended to read as follows: 8-160. As used in this act, the term "disabled veteran" means a person who has served in the armed forces of the

United States and who is entitled to compensation for a ~~one hundred percent (100%) disability under service-connected disability of at least 50% and the laws~~ administered by the veterans administration or who is entitled to compensation for the loss, or permanent loss of use, of one or both feet or one or both hands, or for permanent visual impairment of both eyes to a prescribed degree.”;

And by renumbering remaining sections accordingly;

Also on page 1, in line 29, by striking “or 8-1,158” and inserting “, 8-1,158 or section 1”; in line 35, by striking all following “received”; by striking all in lines 36 through 38; in line 39, by striking all preceding the period and inserting “not less than 1,000 orders for such plate, including payment of the personalized license plate fee required under subsection (a). Upon certification by the director of vehicles to the director of accounts and reports that not less than 1,000 paid orders for such plate have been received, the director of accounts and reports shall transfer \$40,000 from the state highway fund to the distinctive license plate fund”;

On page 2, by striking all in line 30 and inserting the following: “Sec. 4. K.S.A. 8-160 and K.S.A. 2008 Supp. 8-132 and 8-1,141 are hereby repealed.”;

In the title, in line 10, by striking “distinctive”; in line 11, following “amending” by inserting “K.S.A. 8-160 and”; also in line 11, following “Supp.” by inserting “8-132 and”; in line 12, by striking “section” and inserting “sections”;

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

DWAYNE UMBARGER
BOB MARSHALL
KELLY KULTALA
Conferees on part of Senate

GARY K. HAYZLETT
JENE VICKREY
MARGARET LONG
Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2134**.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Nays: Emler.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2152**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

DWAYNE UMBARGER
BOB MARSHALL
KELLY KULTALA
Conferees on part of Senate

GARY K. HAYZLETT
JENE VICKREY
Conferees on part of House

On motion of Senator Umbarger, the Senate adopted the conference committee report on **HB 2152**, and requested a new conference committee be appointed.

The President appointed Senators Umbarger, Marshall and Kultala as a second Conference Committee on the part of the Senate on **HB 2152**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Vratil, Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Lynn, Marshall, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, D. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, and Wysong introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1869—

A RESOLUTION congratulating the Kansas Medical Society on its 150th anniversary.

WHEREAS, The Kansas Medical Society was granted a charter of incorporation by the Territorial Legislature on February 10, 1859; and

WHEREAS, The Kansas Medical Society is the oldest corporation in continuous existence in the State of Kansas; and

WHEREAS, The first Governor, Lieutenant Governor and Secretary of State of the new State of Kansas in 1861 were all physicians and incorporators of the Kansas Medical Society; and

WHEREAS, The Kansas Medical Society has benefitted the citizens of our state through a long history of effective advocacy for high standards of medical practice and sound health policy development; and

WHEREAS, The Kansas Medical Society will commemorate its sesquicentennial year at its annual membership meeting May 1-3, 2009, in Topeka: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Kansas Medical Society on its 150 years of advocacy and service to the physicians of the state; and

Be it further resolved: That the Secretary of the Senate be directed to provide two enrolled copies of this resolution to the Kansas Medical Society.

On emergency motion of Senator Vratil **SR 1869** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2085**, as amended by House Committee, be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2085,” as follows:

“SENATE Substitute for HOUSE BILL No. 2085

By Committee on Federal and State Affairs

“AN ACT concerning solid waste; relating to management plans; relating to the waste tire management fund; amending K.S.A. 2008 Supp. 65-3410 and 65-3424g and repealing the existing sections.”;

and the substitute bill be passed.

Also, **HB 2267** be amended by substituting a new bill to be designated as “SENATE Substitute for HOUSE BILL No. 2267,” as follows:

“SENATE Substitute for HOUSE BILL No. 2267

By Committee on Federal and State Affairs

“AN ACT concerning certain boards, commissions and officers; relating to the appointment thereof; amending K.S.A. 2008 Supp. 75-712 and 75-4315d and repealing the existing sections.”;

and the substitute bill be passed.

On motion of Senator D. Schmidt the Senate adjourned until 9:30 a.m., Wednesday, April 1, 2009.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

