

Journal of the Senate

SIXTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, May 8, 2009—11:00 a.m.

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

Heavenly Father,
I pray this prayer trusting in Your sense of Humor . . .
And perhaps the Senate's sense of humor, also

We would like to go home.
We're tired and we want to go to bed.
None of us are totally satisfied,
And none of us are totally sad.

Wherever we may roam
Under the old green dome,
You're going to hear us singing this song
Show us the way to go
We really need to go
Oh, How we want to go home.

AMEN!

The Pledge of Allegiance was led by President Stephen Morris.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Lynn, Brownlee and Colyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1893—

A RESOLUTION congratulating and thanking Ed and Judy Colson.

WHEREAS, After over 60 years of combined service to the Olathe Bands programs with the Olathe Schools, Ed and Judy Colson plan to retire from the Olathe District Schools; and

WHEREAS, Ed and Judy Colson both graduated from Baker University with Masters Degrees in 1988 and began their teaching careers in rural Kansas prior to joining the Olathe School District; and

WHEREAS, Ed Colson is the Director of Bands at Olathe Northwest High School. Ed is a co-founder of the new Kansas City Jazz Festival held in Kansas City's historic 18th and Vine District and is also on the Board of Directors for the Johnson County Wind Symphony; and

WHEREAS, Ed received the National Band Association Award for Outstanding Jazz Education in 1993 and is listed in the 2006 edition of Outstanding American Teachers and the 2008 edition of Who's Who in America; and

WHEREAS, In 2008, the Olathe News listed Ed as number 40 on their list of the 150 most notable people in Olathe's 150-year history. Ed is very involved in the community. He is on Olathe's Sister Cities Committee, is musical coordinator for Winterfest and is the conductor of the Olathe Civic Band, a position he has held since 1999; and

WHEREAS, Judy Colson is the Associate Director at Olathe Northwest High School and is in her thirty-first year of teaching band in Kansas. In addition to her work with Olathe Northwest Bands, she is a sponsor of the ONW Tri-M Music Honor Society and performs with the Olathe Civic Band; and

WHEREAS, In September of 2002, Judy Colson was awarded the Olathe Public Schools Foundation Educator Excellence Award and is listed in the 2009 edition of Who's Who of American Women; and

WHEREAS, The combined 60 years of contributions that Ed and Judy Colson have provided to the advancement of music education in Kansas have been invaluable: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we thank Ed and Judy Colson for their many years of wonderful service enriching many students' lives and that we congratulate them on their retirement and wish them continued success and happiness; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Julia Lynn.

On emergency motion of Senator Lynn **SR 1893** was adopted unanimously.

Senator Lynn introduced and congratulated Ed and Judy Colson upon their combined 60 years service in the Olathe District Schools. Members of the Colson family, friends and students were also in attendance.

Senators Lynn, Brownlee and Colyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1894—

A RESOLUTION congratulating the Olathe North Culinary Arts students.

WHEREAS, The Olathe North Culinary Arts students won second place in the National ProStart Invitational, a culinary competition featuring 39 high school culinary programs in which the students must produce a 3 course meal including appetizer, entree and dessert in 60 minutes utilizing only 2 butane burners; and

WHEREAS, The Olathe School District Culinary Arts program encompasses students from all four high schools within the school district and three of the high schools are represented on the team; and

WHEREAS, Under the instruction of Certified Culinary Instructor Chef Mike Chrostowski, this is the fourth year in a row that the Olathe North Culinary Arts students have attended the national competition; and

WHEREAS, The students on the Olathe North Culinary Arts team are Ryne Schnabel, Olathe North Senior; Jamie Lyons, Olathe North Senior; Juan Jasso-Mendoza, Olathe North Senior; Kealan O'Boyle, Olathe Northwest Junior; and Chris Roudebush, Olathe South Junior; and

WHEREAS, The menu prepared by the students included an appetizer of poached Maine lobster tail with a spring pea and carrot risotto topped with sauted bell peppers and frise and laced with a citrus beurre blanc; an entree of toasted coriander and cumin encrusted rack of lamb with crisp latkes and shiitake mushroom ragout in a pool of rich sherry demi glace; and Madagascar vanilla infused crme caramel accompanied by a blackberry coulis and garnished with pulled sugar hazelnut, cocoa nib brittle on a chocolate painted plate for dessert; and

WHEREAS, The program, entitled "Top of the Class with Guy Fiere", was taped by the Food Network and will air sometime in the next three months; and

WHEREAS, As a result of this year's state and national competitions, the Olathe North Culinary Arts students have been awarded \$521,000 in scholarships; and

WHEREAS, The members of the team are a diverse group with little in common besides their love for cooking, but through hard-work and determination were able to band together to create a meal worthy of such high recognition: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the Olathe North Culinary Arts students for their outstanding talent in crafting such an amazing meal and that we wish them future culinary success; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Julia Lynn.

On emergency motion of Senator Lynn **SR 1894** was adopted unanimously.

Senator Lynn introduced and congratulated the Olathe North Culinary Team: Ryne Schnabel, Jamie Lyons, Keelan O'Boyle, Christopher Roudebush, Juan Jasso-Mendoza and their instructor, Chef Mike Chrostowski.

Senator Colyer introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1895—

A RESOLUTION commemorating the quincentenary of the birth of Andreas Palladio who inspired the design of the Kansas Capitol.

WHEREAS, November 30, 2008 was the 500th anniversary of the birth of Andreas Palladio and this anniversary year is being celebrated around the world; and

WHEREAS, The design of the Kansas State Capitol, based on Palladio's Villa Rotonda, began in 1566 with a dome and four symmetrical porticos. Furthermore, the architectural design of the United States Capitol, by physician William Thornton, was selected by Thomas Jefferson and George Washington because of its Palladian design; and

WHEREAS, Andreas Palladio, who began as a poor stone mason who studied Vitruvius and ancient buildings and wrote the *I Quattro Libri dell'Architettura*, which Thomas Jefferson called his "bible" and became the world's most influential architect, emphasizing symmetry, proportion, the use of classical orders and the idea of blending landscape with architecture; and

WHEREAS, Many of Palladio's buildings, including Villa Rotonda, Villa Poiana, Villa Emo, Villa Barbaro, La Malcontenta, and Church of Il Redentore, are honored as United Nations World Heritage Sites; and

WHEREAS, Palladio inspired generations of architects such as Inigo Jones, Thomas Jefferson, Frank Lloyd Wright, Christopher Wren, Le Corbusier and I.M. Pei and informed the design of many of the world's iconic buildings including the U.S. Capitol, the White House, Montecello, Buckingham Palace, St. Paul's Cathedral, the Library of Congress, the Supreme Court and Kansas' notable buildings including the Kansas State Capitol, the Cathedral of the Plains, Villa NeoPoiana, the University of Kansas' Strong Hall and the home of Alf Landon; and

WHEREAS, Palladio's influence can be seen in the everyday homes of all Kansans in their front porches, columns and pediments, the symmetry and landscaping that blends their home with the surrounding countryside and their practical functionality in design; and

WHEREAS, Palladio's harmonic proportions, use of classical orders and symmetry inspired Thomas Jefferson, George Washington and our founding fathers as the architectural embodiment of our young democracy; and

WHEREAS, In this very Senate chamber, Palladio's vision sets the tone for our deliberations and the Palladian loggias on both sides of this chamber emphasize harmony and are often the site for some of our more substantive service for Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor Palladio on his quincentenary and that we encourage all Kansans to recognize their profound Palladian heritage in Kansas and our American democracy; and

Be it further resolved: That the Secretary of the Senate be directed to provide an enrolled copy of this resolution to Senator Jeffrey Colyer; Barry Gries, the Architect of the State House; William Groth, the former Architect of the State House; Jeffrey Russell, Director of Legislative Services; Vance Kelley, Treanor Architects Consulting; the Kansas Historical Society; the University of Kansas School of Architecture; the Center for Palladian Studies in America; the Centro Internazionale de Studi di Architettura Andrea Palladio, Vicenza; the Royal Institute of British Architects; the curators and custodians of Montecello, Rotunda, Poiana and Palladio's patrimony; and the Envoy Extraordinary and Minister Plenipotentiary, the Ambassador of Italy.

On emergency motion of Senator Colyer **SR 1895** was adopted unanimously.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

AFTERNOON SESSION

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

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1618—

By Senators Umbarger, Kultala and Marshall

A CONCURRENT RESOLUTION urging the legislature to formulate and implement a comprehensive transportation plan by the 2010 legislative session.

WHEREAS, Transportation connects Kansans to their workplaces, to the institutions that matter to them, and to the services upon which they depend. Transportation is also critical to delivering Kansas products to markets, seizing economic opportunities and creating jobs that stimulate our economy; and

WHEREAS, Our Kansas transportation system is comprised of railroads, airports, passenger rail, transit, roads and bridges; and

WHEREAS, The state has successfully completed the 1989 Comprehensive Highway Program and the 1999 Comprehensive Transportation Program and now faces the challenges of addressing the state's transportation needs for the coming future; and

WHEREAS, More than 2,000 people lost their lives on Kansas roads in the last 5 years, demonstrating an ongoing need to improve the condition and quality of our public roads and bridges to improve the safety of travelers in our state; and

WHEREAS, The state's population is projected to increase by 11 percent in the next 20 years, and over the same time period vehicle and truck traffic is expected to increase by 44 and 97 percent respectively; and

WHEREAS, Transit ridership is on the rise, the importance of freight movement by railroads is increasing, the state's airports are in need of improvement, county and local roads are in need of repair, and intercity train travel is attracting more interest; and

WHEREAS, Transportation revenues are projected to fall short of future transportation needs as documented in the Kansas Long Range Transportation Plan; and

WHEREAS, Over the last 20 years Kansas has made a major investment in our transportation systems and projections indicate that without additional revenue the percent of the state's highways rated in good condition will drop from 83 percent in 2008 to less than 50% in 2020. It would be wasteful to lose our investment because we did not responsibly care for our transportation infrastructure; and

WHEREAS, The state and the country is in the greatest recession since the Great Depression of the 1930s, and transportation construction would provide an economic stimulus to the state through the employment of thousands of men and women in the improvement of our state's transportation infrastructure; and

WHEREAS, All 105 Kansas counties and more than 200 Kansas cities have formally adopted resolutions in support of a new comprehensive transportation plan; and

WHEREAS, Funding of a new Comprehensive Transportation Program was not possible this year as a result of the weakened economy of the state; and

WHEREAS, The T-LINK Task Force met in 2008 over a period of five months, held statewide meetings attended by over 850 Kansans, concluded that a new transportation program is needed and widely supported, and developed a set of recommendations for the state's transportation system; and

WHEREAS, The Legislature's Special Committee on a new Comprehensive Transportation Plan held six meetings across the state, heard testimony from over 120 Kansans, and concluded that a new transportation program is needed and supported; and

WHEREAS, Any new transportation plan should build on the body of work already created by the T-LINK Task Force and the Special Committee on a new Comprehensive Transportation Plan: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That we undertake efforts during the 2009 legislative interim to develop a plan to present to the 2010 Session of the Kansas Legislature and Governor for funding a new, multi-year transportation plan that recognizes the needs of both rural and urban Kansas, supports the economic priorities of the state, and uses the strength of all modes of transportation to help stimulate the state's economic recovery.

REFERRED TO COMMITTEE

President Morris referred **SCR 1618** to the **Committee of the Whole**.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **Senate Substitute for HB 2369**.

The House nonconcur in Senate amendments to **Senate Substitute for Substitute HB 2365**, requests a conference and appoints Representatives Carlson, King and Menghini as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **S Sub for Sub HB 2365**.

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

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **S Sub for HB 2072; HB 2214**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2072**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2072, as follows:

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

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

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

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

On page 8, by striking all in lines 1 through 4; in line 5, by striking "(11)"; in line 10, by striking "(12)" and inserting "(11)"; in line 24, by striking "(13)" and inserting "(12)"; in line

26, by striking "(14)" and inserting "(13)"; in line 31, by striking "(15)" and inserting "(14)"; in line 35, by striking "(16)" and inserting "(15)"; by striking all in lines 39 through 43;

By striking all on page 9;

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

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

Sec. 5. K.S.A. 2008 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in subsection (3)(a) of K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. The board shall determine the actuarial cost method to be used in annual actuarial valuations, to determine the employer contribution rates that shall be certified by the board. Such certified rate of contribution, amortization methods and periods and actuarial cost method shall be based on the standards set forth in subsection (3)(a) of K.S.A. 74-4908 and amendments thereto and shall not be based on any other purpose outside of the needs of the system.

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

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

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

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

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

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

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

(ii) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to the state of Kansas and to the participating employers under K.S.A. 74-4931, and amendments thereto shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar year 2005, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (C) for the fiscal year commencing in calendar year 2007 and in each subsequent calendar year, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year.

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

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

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

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

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

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

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

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

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

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

(11) The actuarial accrued liability incurred for the provisions of K.S.A. 2008 Supp. 74-49,114b, and amendments thereto, for the KPERS local group and retirants who were

employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

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

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

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

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

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

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

And by renumbering sections accordingly;

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

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

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

JOHN VRATIL
CAROLYN MCGINN
LAURA KELLY
Conferees on part of Senate

SHARON SCHWARTZ
CLARK SHULTZ
GERALDINE FLAHERTY
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **S Sub for HB 2072**.

On roll call, the vote was: Yeas 37, Nays 1, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, 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: Huelskamp.
 Absent or Not Voting: Bruce, Haley.
 The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

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

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

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

By striking all on pages 2 through 25;

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

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

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

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

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

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

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

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

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

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

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

(a) Controlled insurance programs shall:

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

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

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

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

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

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

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

(1) Coverage for completed operations liability shall not, after substantial completion of a construction project, be canceled, lapse or expire before the limitation on actions has expired as established by subsection (b) of K.S.A. 60-513, and amendments thereto, but in

no case greater than 10 years, and if another carrier takes responsibility for completed operations liability coverage, any and all prior completed operation liability carriers will be released from completed operations liability unless specified otherwise in subsequent policies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) a provision that purports to waive, release or extinguish rights of subrogation for losses or claims covered or paid by liability or workers compensation insurance except that a contract may require waiver of subrogation for losses or claims paid by a consolidated or wrap-up insurance program, owners and contractors protective liability insurance, or project

management protective liability insurance, *unless otherwise prohibited under subsection (b)(5) of section 3, and amendments thereto.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. K.S.A. 2008 Supp. 40-2,105a is hereby amended to read as follows: 40-2,105a.

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

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

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

~~(c) For the purposes of this section, "mental illness, alcoholism, drug abuse or substance use" means the following. Schizophrenia, schizoaffective disorder, schizophreniform disorder, brief reactive psychosis, paranoid or delusional disorder, atypical psychosis, major affective disorders (bipolar and major depression), cyclothymic and dysthymic disorders, obsessive compulsive disorder, panic disorder, pervasive developmental disorder, including autism, attention deficit disorder and attention deficit hyperactive any disorder as such terms~~

are defined in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association ~~but shall not include conditions not attributable to a mental disorder that are a focus of attention or treatment.~~

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

~~(d)~~ (d) The provisions of this section shall not apply to any *small employer group policy, as defined under K.S.A. 40-2209, and amendments thereto, providing medical, surgical or hospital expense coverage or to any medicare supplement policy of insurance, as defined by the commissioner of insurance by rule and regulation.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) As used in this section:

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

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

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

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

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

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

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

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

And by renumbering sections accordingly;

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

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

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

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

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

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

RUTH TEICHMAN

KARIN BROWNLEE

CHRIS STEINEGER

Conferees on part of Senate

CLARK SHULTZ

DALE SWENSON

Conferees on part of House

Senator Teichman moved the Senate adopt the Conference Committee Report on **HB 2214**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 0, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, 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.

Absent or Not Voting: Bruce, Haley.

The Conference Committee report was adopted.

REPORT ON ENGROSSED BILLS

SB 171 reported correctly engrossed May 8, 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 V. Schmidt in the chair.

On motion of Senator V. Schmidt the following report was adopted:

Recommended:

SCR 1616 be adopted.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SCR 1616** was advanced to Final Action and roll call.

SCR 1616, A CONCURRENT RESOLUTION urging Kansas school districts to use carefully the federal stimulus funds received under the Federal American Recovery and Reinvestment Act of 2009 and to use other available funds to establish or to increase the balances in contingency reserve funds of districts.

On roll call, the vote was: Yeas 35, Nays 2, Present and Passing 1, Absent or Not Voting 2.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelsey, 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: Kultala, Lee.

Present and Passing: Kelly.

Absent or Not Voting: Bruce, Haley.

The resolution was adopted.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

ORIGINAL MOTION

On emergency motion of Senator D. Schmidt, **SCR 1618** was advanced on the Calendar under the heading of General Orders to the first order of business.

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 V. Schmidt in the chair.

On motion of Senator V. Schmidt the following report was adopted:

Recommended:

SCR 1618 be adopted.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator D. Schmidt an emergency was declared by a 2/3 constitutional majority, and **SCR 1618** was advanced to Final Action and roll call.

SCR 1618, A CONCURRENT RESOLUTION urging the legislature to formulate and implement a comprehensive transportation plan by the 2010 legislative session.

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

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

Absent or Not Voting: Bruce, Haley, Masterson.

The resolution was adopted.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Schodorf, Abrams, Hensley, Huelskamp, Marshall, Owens, Steineger, Teichman, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1896—

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

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

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

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

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

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

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

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

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

Be it further resolved: That the Secretary of the Senate be directed to provide two enrolled copies of this resolution to Senator Jean Schodorf.

On emergency motion of Senator Schodorf **SR 1896** was adopted unanimously.

Senators paid tribute to Dr. Hemenway, thanking him not only for his contributions to those associated with the University of Kansas, but to the entire state of Kansas.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

EVENING SESSION

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

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **HB 2060**.

The House adopts the conference committee report on **SB 33**.

The House announces the appointment of Representatives Neufeld, Kiegerl and Logan-bill to replace Representatives C. Holmes, Knox and Kuether as conferees on **HB 2115**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 33**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 33**, submits the following report:

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

On page 3, preceding line 17, by inserting the following:
 “New Section 1. As used in the statewide electronic logging system for sale of methamphetamine precursor act, unless the context otherwise requires:

- (a) “Board” means the state board of pharmacy.
- (b) “Methamphetamine precursor” means any compound, mixture or preparation containing pseudoephedrine, ephedrine or phenylpropanolamine, or any of their salts or optical isomers, or salts of optical isomers, but does not include products that have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts for precursors, and does not include animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.
- (c) “Pharmacy” means premises, laboratory, area or other place, including in-state and out-of-state facilities that are required to be registered under K.S.A. 65-1643 or 65-1657, and amendments thereto: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words “pharmacist,” “pharmaceutical chemist,” “pharmacy,” “apothecary,” “drugstore,” “druggist,” “drugs,” “drug sundries” or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign “Rx” may be exhibited.

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

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

- (1) The name and address of the person purchasing, receiving or otherwise acquiring the methamphetamine precursor;
- (2) the name of the product and quantity purchased;
- (3) the date and time of the purchase; and
- (4) the name, or initials, of the licensed pharmacist, registered pharmacy technician or pharmacy intern or clerk supervised by a licensed pharmacist who sold the product.

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

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

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

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

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

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

(b) In the event that funding for a statewide program is not available, the board may implement the program on a non-statewide basis, whether such program is funded regionally or county-wide or otherwise. The board shall, by rules and regulations, prescribe that such

regional or non-statewide program comply with requirements applicable to a statewide program, including that such non-state governmental units or regional programs may not utilize different vendors. Any requirements of this act shall only be applicable to pharmacies within such units of government or regions, if a regional program is established, and all other pharmacies in the state shall be exempt from requirements for the electronic logging system required pursuant to this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) there is a lawful prescription.

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

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

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

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

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

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

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

(c) The state board of pharmacy may fix and collect a fee as may be required by the board in an amount equal to the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the pharmacy fee fund. The board of pharmacy shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the pharmacy fee fund.

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

And by renumbering the remaining sections accordingly;

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

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

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

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

JIM BARNETT
VICKIE SCHMIDT
DAVID HALEY
Conferees on part of Senate

Senator Barnett moved the Senate adopt the Conference Committee Report on **SB 33**.

On roll call, the vote was: Yeas 33, Nays 4, Present and Passing 0, Absent or Not Voting 3.

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

Nays: Abrams, Huelskamp, Pilcher-Cook, Pyle.

Absent or Not Voting: Bruce, Haley, Lynn.

The Conference Committee report was adopted.

On roll call, the vote was: Yeas 33, Nays 4, Present and Passing 0, Absent or Not Voting 3.

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

Nays: Abrams, Huelskamp, Pilcher-Cook, Pyle.

Absent or Not Voting: Bruce, Haley, Lynn.

The Conference Committee report was adopted.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Francisco as a member of the Conference Committee on **S Sub for HB 2115** to replace Senator Lee.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

MESSAGE FROM THE HOUSE

Announcing passage of **SB 336**, as amended.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **SB 41**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Emler moved the Senate concur in house amendments to **SB 336**.

SB 336. An act reconciling amendments to certain statutes and making certain technical changes related thereto; amending K.S.A. 16a-6-117, as amended by section 23 of 2009 Senate Bill No. 240, 20-3201, 21-3826, as amended by section 1 of 2009 Senate Bill No. 237, and 72-4423, as amended by section 11 of 2009 House Bill No. 2003, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 Senate Bill No. 275, 8-1567, as amended by section 5 of 2009 Senate Substitute for House Bill No. 2096, 8-2110, as amended by section 1 of 2009 Senate Bill No. 158, 12-5242, 19-101a, 20-367, 22-3716, 25-4156, 25-4169a, 28-172a, as amended by section 15 of 2009 Senate Bill No. 66, 38-2211, 38-2255, as amended by section 6 of 2009 Senate Bill No. 134, 45-221, as amended by section 27 of 2009 House Bill No. 2052, 59-104, as amended by section 19 of 2009 Senate Bill No. 66, 60-1621, as amended by section 22 of 2009 Senate Bill No. 66, 60-2001, as amended by section 23 of 2009 Senate Bill No. 66, 60-4104, as amended by section 1 of 2009 Substitute for Senate Bill No. 28, 61-2704, as amended by section 25 of 2009 Senate Bill No. 66, 61-4001, as amended by section 26 of 2009 Senate Bill No. 66, 65-1643, 65-2878, 66-2005, 72-6448, 75-7c04, as amended by section 2 of 2009 House Bill No. 2308, 75-7427, 76-3110, 79-213, 79-5a27 and 79-32,117 and section 16 of 2009 House Bill No. 2236 and repealing the existing sections; also repealing K.S.A. 20-3201, as amended by section 1 of 2009 House Bill No. 2111, 21-3826, as amended by section 27 of 2009 House Bill No. 2236, 65-4142, as amended by section 1 of 2009 House Bill No. 2059, and 76-3110, as amended by section 36 of chapter 145 of the 2004 Session Laws of Kansas, and K.S.A. 2008 Supp. 8-126, as amended by section 4 of 2009 House Bill No. 2152, 8-1567, as amended by section 19 of 2009 House Bill No. 2236, 8-2110, as amended by section 3 of 2009 Senate Bill No. 66, 12-1773a, 12-5242a, 12-5242b, 19-101m, 20-367, as amended by section 2 of 2009 House Bill No. 2111, 22-3716a, 25-4156a, 25-4169b, 28-172a, as amended by section 3 of 2009 House Bill No. 2111, 38-2211a, 38-2255, as amended by section 47 of 2009 House Bill No. 2236, 39-756d, 45-221, as amended by section 2 of 2009 Senate Bill No. 87, 45-229b, 59-104, as amended by section 4 of 2009 House Bill No. 2111, 60-1621, as amended by section 5 of 2009 House Bill No. 2111, 60-2001, as amended by section 6 of 2009 House Bill No. 2111, 60-2102a, 60-2403a, 60-4104, as amended by section 51 of 2009 House Bill No. 2236, 61-2704, as

amended by section 7 of 2009 House Bill No. 2111, 61-3003a, 61-4001, as amended by section 8 of 2009 House Bill No. 2111, 65-1643b, 65-2878b, 66-2005a, 72-6433c, 72-6448, as amended by section 1 of 2009 House Bill No. 2002, 75-7c04, as amended by section 60 of 2009 House Bill No. 2236, 75-7427a, 79-213e, 79-5a27a and 79-32,117m and section 1 of 2009 Senate Substitute for House Bill No. 2126.

On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

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

Absent or Not Voting: Brownlee, Bruce, Faust-Goudeau, Haley, Lynn, Steineger.

The Senate concurred.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **SB 41**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 41**, submits the following report:

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

On page 4, after line 41, by inserting the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And by renumbering sections accordingly;

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

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

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

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

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

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 41**.

On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

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

Absent or Not Voting: Brownlee, Bruce, Faust-Goudeau, Haley, Lynn, Steineger.

The Conference Committee report was adopted.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **HB 2158**.

The House adopts the conference committee report on **HB 2162**.

The House concurs in Senate amendments to **Senate Substitute for Substitute HB 2365**, and requests return of the bill.

The House concurs in Senate amendments to **HB 2374**.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **HB 2214**.

The House adopts the conference committee report on **SB 84**.

The House adopts the conference committee report on **SB 168**.

The House adopts the conference committee report on **Senate Substitute for HB 2072**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 84; H Sub for SB 168**.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **SB 84; H Sub for SB 168**.

CONFERENCE COMMITTEE REPORT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Unified School District No. _____,

_____ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year in an amount not to exceed _____% of the amount

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

~~CERTIFICATE~~

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

~~_____~~
~~Clerk of the board of education.~~

CERTIFICATE

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

Clerk of the board of education.

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

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

(f) Unless specifically stated otherwise in the resolution, the authority to adopt a local option budget shall be continuous and permanent. The board of any district which is authorized to adopt a local option budget may choose not to adopt such a budget or may adopt a budget in an amount less than the amount authorized. If the board of any district whose authority to adopt a local option budget is not continuous and permanent refrains from adopting a local option budget, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget.

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

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

(i) Any resolution adopted pursuant to this section may revoke or repeal any resolution previously adopted by the board. If the resolution does not revoke or repeal previously adopted resolutions, all resolutions which are in effect shall expire on the same date. The

maximum amount of the local option budget of a school district under all resolutions in effect shall not exceed the state prescribed percentage in any school year.

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

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

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

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

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

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

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

Sec. 4. K.S.A. 2008 Supp. 10-1116a, 72-6433 and 72-6433c are hereby repealed.

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

In the title, by striking all in lines 12, 13 and 14; following line 14, by inserting: “AN ACT concerning school districts; relating to school finance; amending K.S.A. 2008 Supp. 10-1116a and 72-6433 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 72-6433c.”;

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

CLAY AURAND
DEENA HORST
VALDENIA WINN
Conferees on part of House

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

Senator Schodorf moved the Senate adopt the Conference Committee Report on **SB 84**.
On roll call, the vote was: Yeas 35, Nays 0, Present and Passing 0, Absent or Not Voting 5.

Yeas: Abrams, Apple, Barnett, Brownlee, Brungardt, Colyer, Donovan, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson,

McGinn, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt D, Schmidt V, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle, Wysong.

Absent or Not Voting: Bruce, Emler, Haley, Lynn, Steineger.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 168**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 168, as follows:

On page 1, in line 25, by striking "Among" and inserting "Except as otherwise provided by this section, among"; in line 36, after the period, by inserting: "The priority of payment prescribed by this section shall be subject to all applicable requirements, limitations or restrictions under federal or state law, including, but not limited to, the federal American recovery and reinvestment act of 2009, and shall be subject to all applicable requirements, limitations or restrictions prescribed by contracts and other agreements authorized by law, including, but not limited to, debt service payments pursuant to contractual bond obligations, as determined by the secretary of administration, after conferring with the director of the budget.";

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

JASON P. WATKINS

KASHA KELLEY

TOM BURROUGHS

Conferees on part of House

JAY SCOTT EMLER

JOHN VRATIL

ANTHONY HENSLEY

Conferees on part of Senate

Senator Vratil moved the Senate adopt the Conference Committee Report on **H Sub for SB 168**.

On roll call, the vote was: Yeas 27, Nays 3, Present and Passing 5, Absent or Not Voting 5.

Yeas: Abrams, Barnett, Brownlee, Colyer, Donovan, Faust-Goudeau, Hensley, Holland, Huelskamp, Kelly, Kelsey, Kultala, Lee, Marshall, Masterson, Morris, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, Schmidt V, Schodorf, Taddiken, Teichman, Wagle.

Nays: Apple, Umbarger, Vratil.

Present and Passing: Brungardt, Francisco, McGinn, Schmidt D, Wysong.

Absent or Not Voting: Bruce, Emler, Haley, Lynn, Steineger.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: It is midnight on the last day of this legislative session. This is the first time the Senate has considered this proposal, which was created by the House of Representatives. Perhaps it is a good idea, but the truth is I am not sure I fully understand its ramifications. Consequently, I pass on this vote.—DEREK SCHMIDT

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **HB 2195**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2195**, 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 15, after line 3, by inserting the following:

“Sec. 11. On and after July 1, 2009, K.S.A. 59-2971, as amended by section 10 of this act, is hereby amended to read as follows: 59-2971. (a) At any time after the petition provided for in K.S.A. 59-2957 and amendments thereto has been filed venue may be transferred in accordance with this section.

(1) Prior to trial required by K.S.A. 59-2965 and amendments thereto, *and* before the expiration of two full working days following the probable cause hearing held pursuant to K.S.A. 59-2959 or 59-2962 and amendments thereto, the district court then with jurisdiction, on its own motion or upon the written request of any person, may transfer the venue of the case to the district court of the county where the patient is being detained, evaluated or treated in a treatment facility under the authority of an order issued pursuant to K.S.A. 59-2958, 59-2959 or 59-2964 and amendments thereto. Thereafter the district court may on its own motion or upon the written request of any person transfer venue to another district court only for good cause shown.

When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of ~~all pleadings and orders in the entire file~~ of the case. The district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated.

(2) After trial required by K.S.A. 59-2965 and amendments thereto, the district court may on its own motion or upon the written request of any person transfer venue to another district court for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of the ~~petition for determination of mental illness subject to involuntary commitment for care and treatment, the most recent notice of hearing issued by the court, the order changing venue, the current order of treatment, the most recent written report summarizing treatment and any order allowing withdrawal of the patient's attorney~~ *entire file of the case*. The transferring district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated. ~~No later than 5:00 p.m. of the second full day the district court transferring venue is open for business following the issuance of the order transferring venue, the district court transferring venue shall send to the receiving district court the entire file of the case by restricted mail.~~

(b) The district court issuing an order transferring venue, if not in the county of residence of the proposed patient, shall transmit to the district court in the county of residence of the proposed patient a statement of any court costs incurred by the county of the district court issuing the order and, if the county of residence is not the receiving county, a ~~certified facsimile or electronic copy of all pleadings and orders in the entire file~~ of the case.

(c) Any district court to which venue is transferred shall proceed in the case as if the petition had been originally filed therein and shall cause notice of the change of venue to be given to the persons named in and in the same manner as provided for in K.S.A. 59-2963 and amendments thereto. In the event that notice of a change of location of a hearing due to a change of venue cannot be served at least 48 hours prior to any hearing previously scheduled by the transferring court or because of scheduling conflicts the hearing can not be held by the receiving court on the previously scheduled date, then the receiving court shall continue the hearing for up to seven full working days to allow adequate time for notice to be given and the hearing held.

(d) Any district court to which venue is transferred, if not in the county of residence of the patient, shall transmit to the district court in the county of residence of the patient a

statement of any court costs incurred and a ~~certified~~ *facsimile or electronic* copy of all pleadings and orders entered in the case after transfer.

Sec. 12. On and after July 1, 2009, K.S.A. 59-29b71, as amended by section 8 of this act, is hereby amended to read as follows: 59-29b71. (a) At any time after the petition provided for in K.S.A. 59-29b57 and amendments thereto has been filed venue may be transferred in accordance with this section.

(1) Prior to trial required by K.S.A. 59-29b65 and amendments thereto, *and* before the expiration of two full working days following the probable cause hearing held pursuant to K.S.A. 59-29b59 or 59-29b62 and amendments thereto, the district court then with jurisdiction, on its own motion or upon the written request of any person, may transfer the venue of the case to the district court of the county where the patient is being detained, evaluated or treated in a treatment facility under the authority of an order issued pursuant to K.S.A. 59-29b58, 59-29b59 or 59-29b64 and amendments thereto. Thereafter the district court may on its own motion or upon the written request of any person transfer venue to another district court only for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of ~~all pleadings and orders in the entire file of the case~~. The district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated.

(2) After the trial required by K.S.A. 59-29b65 and amendments thereto, the district court may on its own motion or upon the written request of any person transfer venue to another district court for good cause shown. When an order changing venue is issued, the district court issuing the order shall immediately send to the district court to which venue is changed a facsimile or electronic copy of the ~~petition for determination of whether a person is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment, the most recent notice of hearing issued by the court, the order changing venue, the current order of treatment, the most recent written report summarizing treatment and any order allowing withdrawal of the patient's attorney~~ *entire file of the case*. The transferring district court shall also immediately send a facsimile or electronic copy of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated. ~~No later than 5:00 p.m. of the second full day the district court transferring venue is open for business following the issuance of the order transferring venue, the district court transferring venue shall send to the receiving district court the entire file of the case by restricted mail: Upon request of the receiving district court or upon an order of the district court transferring venue, the transferring district court shall send to the receiving district court the entire original file of the case by mail.~~

(b) The district court issuing an order transferring venue, if not in the county of residence of the proposed patient, shall transmit to the district court in the county of residence of the proposed patient a statement of any court costs incurred by the county of the district court issuing the order and, if the county of residence is not the receiving county, a ~~certified facsimile or electronic~~ copy of ~~all pleadings and orders in the entire file of the case~~.

(c) Any district court to which venue is transferred shall proceed in the case as if the petition had been originally filed therein and shall cause notice of the change of venue to be given to the persons named in and in the same manner as provided for in K.S.A. 59-29b63 and amendments thereto. In the event that notice of a change of location of a hearing due to a change of venue cannot be served at least 48 hours prior to any hearing previously scheduled by the transferring court or because of scheduling conflicts the hearing can not be held by the receiving court on the previously scheduled date, then the receiving court shall continue the hearing for up to seven full working days to allow adequate time for notice to be given and the hearing held.

(d) Any district court to which venue is transferred, if not in the county of residence of the patient, shall transmit to the district court in the county of residence of the patient a statement of any court costs incurred and a ~~certified~~ *facsimile or electronic* copy of all pleadings and orders entered in the case after transfer.

Sec. 13. On July 1, 2009, K.S.A. 59-2971, as amended by section 10 of this act, 59-2971, as amended by section 20 of 2009 Senate Bill No.66, 59-29b71, as amended by section

8 of this act, and 59-29b71, as amended by section 21 of 2009 Senate Bill No.66 are hereby repealed.”;

And by renumbering the remaining sections accordingly;

On page 1, in the title, in line 14, by striking “59-”; in line 15, by striking all before “and” where it appears for the first time and inserting “59-2967, 59-2971, 59-2971, as amended by section 10 of this act, 59-29a19, 59-29b67, 59-29b71, 59-29b71, as amended by section 8 of this act,”; in line 17, before the period, by inserting “; also repealing K.S.A. 59-2971, as amended by section 20 of 2009 Senate Bill No. 66 and 59-29b71, as amended by section 21 of 2009 Senate Bill No. 66”;

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

JOHN VRATIL
CAROLYN MCGINN
LAURA KELLY
Conferees on part of Senate

JIM MORRISON
LANCE KINZER
JANICE L. PAULS
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2195**.

On roll call, the vote was: Yeas 34, Nays 0, Present and Passing 0, Absent or Not Voting 6.

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

Absent or Not Voting: Bruce, Emler, Haley, Lynn, McGinn, Steineger.

The Conference Committee report was adopted.

On motion of Senator D. Schmidt, the Senate recessed until the sound of the gavel.

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

MESSAGE FROM THE HOUSE

The House adopts the conference committee report on **House Substitute for SB 51**.

ORIGINAL MOTION

Senator D. Schmidt moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **H Sub for SB 51**.

ORIGINAL MOTION

Senator D. Schmidt moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and the 30 minute rule be waived on the conference committee report on **H Sub for SB 51**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 51**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 51, as follows:

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

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

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

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

”(j) “Municipal services” include police, fire, emergency medical services, park and recreation services, planning, zoning and code enforcement services, water, sewer, storm water drainage, gas, electric or other utility services, street and bridge maintenance and repair, street light maintenance and repair, and any other municipal service that a city may provide to its residents.

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

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

On page 8, by striking lines 28 through 43;

On page 9, by striking lines 10 through 43;

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city.

The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

- (C) impact on the existing indebtedness of the district and such district's ability to repay that debt;
 - (D) the value of the service facilities of the district located within the area in question;
 - (E) the amount of any expenditures for planning, design or construction of service facilities outside the incorporated or annexed area that are allocable to service to the area in question;
 - (F) the amount of the district's contractual obligations allocable to the area in question;
 - (G) any demonstrated impairment of service or increase of cost to consumers of the district remaining after the annexation and the impact on future revenues lost from existing customers;
 - (H) any necessary and reasonable legal expenses and professional fees;
 - (I) any factors relevant to maintaining the current financial integrity of the district;
 - (J) the average increase in the number of benefit units in the area annexed for the three years immediately preceding such annexation; and
 - (K) any other relevant factors as agreed to by the three appointed appraisers.
- (2) The appraisers shall hear such evidence as the appraisers deem appropriate and shall make a written summary of findings and conclusions. The agreement or decision of at least two of the three appraisers shall be the fair market value presented to the city for payment and the district for acceptance.
- (3) If either the district or the city is dissatisfied with the decision of the appraisers, then the district or the city may appeal within 30 days such award to the district court. Such appeal shall be heard de novo by the court without a jury.
- (c) The compensation required by this section shall be paid to the district whether or not the city actually utilizes the facilities of the district for the delivery of water to property within the city and shall be paid at a time not later than 120 days following the date upon which the fair market value of the facilities are certified to the city and to the district, or at such later date as may be mutually agreed upon by the city and the district or as may be determined by the district court.
- (d) In any event, the district may elect to retain facilities located within the city used for transmission of water, provided that the district use those facilities to continue to supply water service to benefit units outside the city. The district shall not receive compensation for facilities it elects to retain.
- (e) Except as otherwise provided, nothing in this section shall be construed as limiting the authority of a city to select water service suppliers to areas within the city limits, or to limit the authority of a city to adopt and enforce regulations for the operation of a water service supplier, including, but not limited to, standards of water quality, classification of water customers, capacity of water system, water system connections to sanitary sewer systems, rates and billing practices and other regulations for protection of the public health, safety and welfare.
- (f) In the event that a district will no longer be the water supplier to land as a result of annexation and notice pursuant to subsection (a), the district shall continue to provide such service until the city gives notice of its assumption of responsibility for service, designating the date that the service shall transfer to the supplier designated by the city. The district and the city shall cooperate as necessary to minimize the inconvenience to water customers as a result of the transfer. The city shall give written notice to each customer of the district for whom water service is being transferred specifying the name and address of the new supplier, the effective date of the transfer, the reason for the transfer and a schedule of applicable rates. The district shall not discontinue or limit service to customers who were supplied water by the district at the time of annexation during the period of negotiations unless such customer has violated district bylaws or rules and regulations.
- (g) Following the transfer of water service from the district to the city, the annexed land, or amount of such land for which water service has been transferred to the city, shall be deleted from the territory of the district and all benefit units attached to land located therein shall be canceled without compensation. Notice of such deletion of territory shall be provided to the county clerk and the chief engineer of the division of water resources of the department of agriculture.

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

- (a) "District" means a rural water district organized pursuant to this act;
- (b) "board" means the governing body of a district;
- (c) the terms "board of county commissioners" and "county clerk" shall mean, respectively, the board of county commissioners and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;
- (d) "participating member" means an individual, firm, partnership, association or corporation which owns land located within a district and:
 - (1) Which has subscribed to one or more benefit units of such district; *or*
 - (2) *which is charged a franchise fee for water service which is paid, either directly or indirectly through another water provider, to such district;*
- (e) "chief engineer" means the chief engineer of the division of water resources, Kansas department of agriculture.

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

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

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

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

- (1) Whether the petitioners for release of lands have applied for one or more benefit units to serve the lands requested to be released, which applications have been denied *directly or where the cost of the benefit units or service or equipment is unreasonable, excessive or confiscatory so as to render service unavailable;*
- (2) the length of time before the board of directors reasonably expect to make water service available to the lands requested to be released;
- (3) whether water service is available from another source if the lands are released from the district *and the relative cost of obtaining service from each source;*
- (4) if water service is available from the district to the lands requested to be released, the relative cost of obtaining such water service, as determined by the district, compared to the additional value of the lands after water service is made available;
- (5) if water service is available from the district, the cost of obtaining such water service, as determined by the district, compared to the cost of obtaining water from another source;
- (6) whether any applicable law will prevent any other water suppliers from serving the lands requested to be released; ~~and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) *the amount of the district's contractual obligations allocable to the area in question;*

(E) *any demonstrated impairment of service or increase of cost to consumers of the district remaining after the release and the impact on future revenues lost from existing customers;*

(F) *any necessary and reasonable legal expenses and professional fees;*

(G) *any factors relevant to maintaining the current financial integrity of the district;*
and

(H) *any other relevant factors.*

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

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

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

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

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

And by renumbering the remaining section accordingly;

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

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

SHARON SCHWARTZ

LANCE KINZER

JOSH SVATY

Conferees on part of House

CAROLYN MCGINN

JOHN VRATIL

MARCI FRANCISCO

Conferees on part of Senate

Senator McGinn moved the Senate adopt the Conference Committee Report on **H Sub for SB 51**.

On roll call, a call of the Senate was requested by five senators.

On roll call, the vote was: Yeas 23, Nays 11, Present and Passing 0, Absent or Not Voting 6.

Yeas: Abrams, Apple, Barnett, Brownlee, Colyer, Faust-Goudeau, Francisco, Hensley, Holland, Huelskamp, Kelly, Kelsey, Lee, Masterson, McGinn, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Taddiken, Teichman, Wagle, Wysong.

Nays: Brungardt, Kultala, Marshall, Morris, Owens, Reitz, Schmidt D, Schmidt V, Schoendorf, Umbarger, Vratil.

Absent or Not Voting: Bruce, Donovan, Emler, Haley, Lynn, Steineger.

The Conference Committee report was adopted.

The call of the Senate was lifted.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION No. 1619—

By Senators Morris, D. Schmidt and Hensley

A CONCURRENT RESOLUTION relating to the 2009 regular session of the legislature and providing for an adjournment thereof.

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the legislature shall adjourn at the close of business of the daily session convened on May 8, 2009, until the hour of 10:00 a.m. on June 4, 2009, at which time the legislature shall reconvene and shall continue in session until sine die adjournment at the close of business on June 4, 2009; and

Be it further resolved: That the chief clerk of the house of representatives and the secretary of the senate and employees specified by the director of legislative administrative services for such purpose shall attend their duties each day during periods of adjournment, Sundays excepted, for the purpose of receiving messages from the governor and conducting such other business as may be required; and

Be it further resolved: That members of the legislature shall not receive the per diem compensation and subsistence allowances provided for in subsections (a) and (b) of K.S.A. 46-137a, and amendments thereto, for any day within a period in which both houses of the legislature are adjourned for more than two days, Sundays excepted; and

Be it further resolved: That members of the legislature attending a legislative meeting of whatever nature when authorized pursuant to law, or by the President of the Senate, the Speaker of the House of Representatives or the Legislative Coordinating Council during the period of adjournment for which members are not authorized per diem compensation and subsistence allowances pursuant to K.S.A. 46-137a, and amendments thereto, shall receive compensation and travel expenses or allowances as provided by K.S.A. 75-3212, and amendments thereto.

On motion of Senator D. Schmidt, **SCR 1619** was adopted by voice vote.

On motion of Senator D. Schmidt and in compliance with **SCR 1619**, the Senate adjourned until Sine Die at 10:00 a.m., Thursday, June 4, 2009.

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

PAT SAVILLE, *Secretary of the Senate.*

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **SENATE Substitute for Substitute for HOUSE BILL No. 2014**, AN ACT concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65- 3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the existing sections; also repealing K.S.A. 19-101m., was received on April 13, 2009, and read on April 29,2009.

Message from the Governor

“Last year, I vetoed legislation that forced the Secretary of the Kansas Department of Health and Environment to issue air quality permits for two new coal fired plants which would produce 11 million tons of carbon dioxide each year. These new plants would generate 1400 megawatts of electricity, most of which would be exported to Colorado and Texas. In fact, Kansas would only get 200 megawatts of electricity, while we would get all of the new pollution.

“I vetoed that legislation because while the rest of the country was trying to reduce greenhouse emissions, Kansas would be creating massive new emissions for power we don’t need. Additionally, it appeared that federal legislation that would penalize new carbon dioxide emissions was on the horizon leaving Kansans vulnerable for years to come.

“The bill before me now attempts to take us down that failed path once again. What was a bad idea last year, is an even worse idea today. Now, we know that according to Sunflower Electric’s own reports, their customers will not need additional power until 2018. We also know that President Obama is moving aggressively to regulate new carbon dioxide emissions. These developments reaffirm that now is not the time for new coal plants in Kansas.

“Prior to the start of this legislative session, Lieutenant Governor Parkinson and I worked with utility stakeholders to develop a renewable portfolio standard that would have further developed the natural resource we have in wind energy. Our proposed energy legislation contained real net-metering so that Kansans would be fairly compensated for power they generated; we also included energy efficiency measures to reduce our future energy needs.

“We presented these proposals to the legislature, with the hope that the legislature would move towards a renewable energy economy creating thousands of jobs right here in Kansas. However, the legislature chose instead to sacrifice real comprehensive energy legislation in the pursuit of more coal-fired power plants.

“Despite what supporters of this legislation say, HB 2014 does little to advance clean, renewable energy. In fact, the renewable energy standards established in HB 2014 are less

than the voluntary standards we already have today. The net metering provisions in the bill are weaker than any of the 42 states that currently offer net metering to utility consumers.

“Kansas needs legislation that will increase development of our renewable energy resources, increase energy efficiency measures and create good-paying jobs. Once again, as the rest of the country moves toward a renewable energy future, the legislature is intent on darkening Kansas’ energy future with new coal plants that will provide energy we don’t yet need.

“I encourage the legislature to abandon its efforts to saddle Kansas with massive new carbon dioxide emissions, and instead adopt a plan that will take advantage of our enormous wind assets and really look at energy efficiency as a way to stretch our power sources well into the future while creating thousands of sustainable Kansas jobs.

“Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto House Bill 2014.”

Kathleen Sebelius, Governor

Dated: April 13, 2009

There being no motion to reconsider **Senate Substitute for Substitute for House Bill No. 2014**, the veto was sustained.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **House Bill No. 2121**—AN ACT concerning agriculture; relating to application of swine waste; pesticide and fertilizer programs; fees; milk and dairy products; fees and labeling requirements; amending K.S.A. 2-2203, 2-2205, 2-2206, 2-2207, 2-2209, 2-2214, 2-2440a, 2-2440c, 2-2440e, 2-2446, 2-2449, 2-2450, 2-2454, 2-2455, 2-2470 and 2-2471 and K.S.A. 2008 Supp. 2-1205, 2-2202, 2-2204, 2-2438a, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2469, 2-2905, 2-2906, 2-3304, 2-3306, 2-3309, 2-3318, 65-778, 65-781 and 65-1,182 and repealing the existing sections; also repealing K.S.A. 2-1211 and 2-2466. , was received on April 23, 2009 and read on April 29, 2009.

Message from the Governor

“House Bill 2121 contains a number of provisions relating to pesticide and fertilizer laws and fees as well as dairy inspection and dairy-related fees. Without these fees, Kansas could lose important programs that support essential agricultural business operations in our state. I urge the legislature to send me these components in an independent bill so I can affix my signature and the Department of Agriculture can effectively administer these programs.

“However, the Bill before me also provides for changes in dairy labeling that could make it more difficult to provide consumers with clear information.

“The milk labeling provisions negatively impact a dairy producer’s ability to inform consumers that milk is from cows not treated with recombinant bovine growth hormone (rBST).

“Supporters of the bill claim it’s necessary to protect consumers from false or misleading information. Yet there has been overwhelming opposition by consumer groups, small dairy producers and retailers to this proposed legislation.

“Furthermore, I am concerned that patchwork labeling requirements that differ from state to state will make it too expensive, in an already troubled economy, to provide consumers with information regarding the dairy products they purchase.

“Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto HB 2121.”

Kathleen Sebelius, Governor

Dated: April 23, 2009

There being no motion to reconsider **House Bill No. 2121**, the veto was sustained.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **HOUSE BILL No. 2172**, AN ACT concerning taxation; relating to cash rebates on sales or leases of new motor vehicles; exemptions; valuation of land devoted to agricultural use for estate tax purposes; periods of limitation for income tax refunds and adjustments of income; homestead property tax refunds; amending K.S.A. 2008 Supp. 79-15,253, 79-3230, 79-3602, as amended by section 1 of 2009 House Bill No. 2321, 79-3603, 79-3606 and 79-4502 and repealing the existing sections, was received on April 23, 2009 and read on April 29, 2009.

Message from the Governor

“Many of the organizations requesting tax exemptions in HB 2172 are worthy organizations with important missions; and individually, their requests do not amount to much of a loss in state revenues. However, when added together, the loss in state revenue grows dramatically from \$4.5 million in the first year, to more than \$11 million just a few years from now.

“On April 17th we learned that state revenues leave a deficit gap of \$328 million, impacting the budgets of critical social service programs. With this in mind, I am concerned that further reducing revenues through tax breaks would negatively impact the budgets of critical services for Kansans.

“While the intent of this legislation is good, given the incredible economic challenges and revenue deficits we are facing, we simply are not able to offer these additional tax breaks right now.

“Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto HB 2172.”

Kathleen Sebelius, Governor
Dated: April 23, 2009

There being no motion to reconsider **House Bill 2172**, the veto was sustained.

MESSAGE FROM THE HOUSE

Announcing a veto message from the Governor on **SENATE Substitute for HOUSE BILL No. 2354**, AN ACT making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending section 95 of 2009 House Substitute for Substitute for Senate Bill No. 23 and K.S.A. 2008 Supp. 2-223, 12-5256, 55- 193, as amended by section 87 of 2009 House Substitute for Substitute for Senate Bill No. 23, 75-6702, 76-7,107, 79-2959, 79-2964, 79-2978, as amended by section 88 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-2979, as amended by section 89 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-3425i, 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 repealing the existing sections., received on April 13, 2009, read on April 29, 2009.

Message from the Governor

Message to the House of Representatives

“In January, I presented the legislature a balanced budget for Fiscal Year 2010 that cut state spending while protecting our schools and our most vulnerable Kansans. In the months following my budget proposal, it became clear that state revenues would continue to decline dramatically as a result of the national economic recession. That’s why my budget, and its subsequent budget amendments, proposed millions of dollars in additional savings.

“Unfortunately, the legislature chose not to take action on a number of these cost saving measures. Consequently, the additional cuts to education and services the legislature has

imposed in this bill give me pause, particularly when they chose to leave millions of dollars in revenue on the table that would have made these cuts unnecessary.

“Furthermore, the American Reinvestment and Recovery Act provides Kansas an opportunity to protect our investment in our children’s education. Because there is still uncertainty regarding the minimum threshold of funding a state must maintain to access these funds, we should not put this funding in jeopardy. I encourage the legislature to reconsider the revenue enhancements they have chosen to ignore, before further slashing education and other vital state services.

“Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Substitute for House Bill No. 2354 with my signature approving the bill, except for the items enumerated below:

Kansas Savings Incentive Program

KSIP Authorization

Sections 30, 98(i), and 100 have been line-item vetoed in their entirety.

As part of my budget recommendations, I abolished this program and swept available monies to the State General Fund. The legislature chose to reinstate the program for FY 2010. This action is contrary to the purpose of strategically reducing agency budgets and should be reconsidered.

Members were given the opportunity to reconsider the line item veto. There having been no morion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Kansas Technology Enterprise Corporation

Agency Status

Section 56 has been line-item vetoed in its entirety.

I believe that the State of Kansas has an important role in encouraging economic development and helping Kansas get through economically difficult times. The challenges that Kansas has experienced with the downturn of the economy also bring great opportunities. Kansas needs to reexamine its economic development efforts to ensure that they are focused, efficient and positioned to grow the economy in the future. In light of recent evaluations of the Kansas Technology Enterprise Corporation (KTEC), and given our limited state resources, it makes little sense to use the same system and expect different results. KTEC, under its current organization and operation, has struggled to produce a solid return on our investment in recent years. Therefore, I veto this section to allow the legislature to thoroughly review this program to ensure Kansas is positioned to develop a strong economy for years to come.

Members were given the opportunity to reconsider the line item veto. There having been no morion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Regents System

Use of State Fiscal Stabilization Fund Monies

That portion of Section 72(b) that reads as follows has been line-item vetoed:

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

That portion of Section 73(b) that reads as follows has been line-item vetoed:

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

That portion of Section 74(b) that reads as follows has been line-item vetoed:

“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.”

That portion of Section 75(b) that reads as follows has been line-item vetoed:

“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.”

That portion of Section 76(b) that reads as follows has been line-item vetoed:

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

That portion of Section 77(b) that reads as follows has been line-item vetoed:

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

That portion of Section 78(b) that reads as follows has been line-item vetoed:

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

That portion of Section 79(b) that reads as follows has been line-item vetoed:

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

That portion of Section 80(b) that reads as follows has been line-item vetoed:

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

That portion of Section 81(b) that reads as follows has been line-item vetoed:

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

That portion of Section 81(b) that reads as follows has been line-item vetoed:

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

That portion of Section 81(b) that reads as follows has been line-item vetoed:

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

That portion of Section 81(b) that reads as follows has been line-item vetoed:

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

Early in FY 2009 the Kansas higher education system began to plan for the possibility that state support in FY 2010 could be as much as 7.0 percent below the approved level for FY 2009. Although the cuts are planned, they will have a significant and negative impact across the state’s system. However, given the enacted budget, the Board of Regents has stated that its plan would be to allocate the Recovery Act funds for deferred maintenance as well as tuition cost mitigation. The board notes that it would be unable impose a tuition freeze if the level of state support fell below what I have proposed for FY 2010. Now is not the time to make college less affordable.

My veto of the Federal Higher Education Fiscal Stabilization Fund provisos for FY 2010 will allow the Board of Regents to implement its plan and become a partner with the state

in these challenging times. I therefore find it necessary to veto these constraints placed on the Federal Higher Education Fiscal Stabilization Fund.

Members were given the opportunity to reconsider the line item veto. There having been no morion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

Animal Health

Transfer of Federal Monies to the State General Fund

Section 93(f) has been line-item vetoed in its entirety.

The Greensburg Account of the Disease Control—Federal Fund was established to receive federal reimbursement for the Animal Health Department's expenditures related to expenses incurred during the Greensburg tornado recovery and care of animals. This section, as written, does not follow proper accounting procedures for a transfer of these federal monies to the State General Fund. Given the enormous impact federal funds have on our budget, we must properly account for the monies.

Members were given the opportunity to reconsider the line item veto. There having been no morion to reconsider the line item veto, the Speaker of the House ruled the line item veto sustained.

