

# Journal of the Senate

FIFTY-EIGHTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, May 4, 2010—10:00 a.m.

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

Heavenly Father,

Thank You for the second beatitude: "Blessed are those  
who mourn, for they shall be comforted."

We take note, O God,  
That the word for mourn  
Means grieving for the evil  
That this world has borne.

Mourning for the suffering  
That wickedness has brought;  
Mourning for the victims  
That evil deeds have wrought.

You have promised comfort  
For those broken hearts  
Who have grieved and wept  
At a world torn apart.

A little poem by Robert Browning Hamilton may help  
us to understand better how this can happen...

I walked a mile with Pleasure,  
She chatted all the way,  
But left me none the wiser  
For all she had to say.

I walked a mile with Sorrow,  
And ne'er a word said she,  
But, oh, the things I learned from her  
When Sorrow walked with me!

Again I thank You....praying in the Name of Jesus Christ,

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

## MESSAGE FROM THE HOUSE

The House adopts the Conference Committee Report to agree to disagree on **H Sub for SB 306** and has appointed Representatives Neufeld, Kiegerl and Loganbill as second conferees on the part of the House.

The House announces the appointment of Representatives Aurand, Horst and Winn to replace Representatives Huntington, Rhodes and Mah as conferees on **SB 131**.

#### INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Pilcher-Cook introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1875—

A RESOLUTION designating September 19-26, 2010, and September 18-25, 2011, as Mitochondrial Disease Awareness Weeks.

WHEREAS, Mitochondrial disease is an under-recognized and misunderstood disease which has only recently been diagnosed in children and adults; and

WHEREAS, Mitochondrial disease results when there is a defect that reduces the ability of the mitochondria in virtually every cell to produce needed energy for the cell to function properly. This failure to produce energy results in a severe failure of major organ systems, and the compromise or end of life; and

WHEREAS, There are more than 40 specifically identified mitochondrial diseases, but the vast majority have not yet been identified; and

WHEREAS, Mitochondrial disease may be due to genetics, environment, or some combination of the two factors, and most likely a genetic predisposition to an environmental cause in the individual suffering from mitochondrial disease; and

WHEREAS, Every 30 minutes, a child is born with mitochondrial disease; and

WHEREAS, Mitochondrial diseases may present themselves at any age, but more than half of those affected by the disease are children who show symptoms before five years of age and approximately 80% of whom will not survive beyond 20 years of age; and

WHEREAS, There are no cures for any of the specifically identified mitochondrial diseases; and

WHEREAS, Early treatment of symptoms of mitochondrial diseases may reduce the impact of symptoms and limit further disability; and

WHEREAS, Awareness of mitochondrial disease will promote an enhanced research effort aimed at improved understanding of the disease and dysfunction and the development of treatments for mitochondrial disease: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we designate September 19-26, 2010, and September 18-25, 2011, as Mitochondrial Disease Awareness Weeks to improve the quality of life of those children and adults affected by this devastating disease; and

*Be it further resolved:* That the Secretary of the Senate be directed to send an enrolled copy of this resolution to Pam Johnson, M.D., President of the Kansas City Chapter of the United Mitochondrial Disease Foundation, 370 Terrace Trail West, Lake Quivira, Kansas 66217.

On emergency motion of Senator Pilcher-Cook **SR 1875** was adopted unanimously.

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

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#### 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. 1631—

By Senators Umbarger and Teichman

A CONCURRENT RESOLUTION reactivating the task force created by 2007 Senate Concurrent Resolution No. 1603 formed to study the design and implementation of an electronic motor vehicle financial security verification system.

WHEREAS, The Kansas Legislature created a task force to study the design and implementation of an electronic motor vehicle financial security verification system which provided a report to the 2009 Kansas Legislature as required by Senate Concurrent Resolution No. 1603; and

WHEREAS, The report of the task force identified four goals for implementation of an electronic motor vehicle financial security verification system and considered various design features of such a system; and

WHEREAS, There continues to be a need for all drivers operating vehicles to have motor vehicle liability insurance as required by law yet an estimated ten percent or more of drivers are not in compliance with the state's mandatory financial security laws; and

WHEREAS, Since the acceptance of the task force report in 2009, several states have successfully enacted and are currently operating electronic verification systems to increase compliance with financial security laws of those jurisdictions and which generate increased law enforcement revenues for their respective states and local governments: Now, therefore,

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:* That the task force created by 2007 Senate Concurrent Resolution No. 1603 continue its work on the subject of design and implementation of an electronic motor vehicle financial security verification system and report to the 2011 Kansas Legislature containing the following: A listing of all electronic verification systems currently being successfully operated in the various states; an evaluation of whether any such system will measurably reduce the incidence of driver noncompliance with Kansas motor vehicle financial security laws; recommendations on a list of the design features essential for a successful operation of a system for the state of Kansas; a recommendation of design features which minimize cost and inconvenience to drivers properly insured, law enforcement personnel, corrections facilities, private insurers, judicial systems and state agencies; recommendations on how such a system can be paid for; suggestions on what fines should be levied against persons apprehended by any such electronic verification system; estimates on how much such a system might generate for the state and local governments; suggestions on how enforcement revenues from such a new system should be distributed to state and local governments; and suggestions for a time table for implementation of such a system.

#### **CHANGE OF REFERENCE**

The President withdrew **S Sub for S Sub for HB 2650** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Transportation**.

#### **MESSAGE FROM THE HOUSE**

The House adopts the conference committee report on **HB 2691**.

#### **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: **H Sub for SB 306; HB 2454; S Sub for HB 2582**.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 306**, submits the following report:

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

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

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

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

On motion of Senator Brungardt, the Senate adopted the conference committee report on **H Sub for SB 306**, and requested a new conference committee be appointed.

The President appointed Senators Brungardt, Reitz and Faust-Goudeau as a second Conference Committee on the part of the Senate on **H Sub for SB 306**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2454**, submits the following report:

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

On page 1, by striking all in lines 15 through 18;

By striking all on pages 2 through 7;

On page 8, by striking all in lines 1 through 14 and inserting the following:

"Section 1. K.S.A. 65-177 is hereby amended to read as follows: 65-177. (a) The term "data" as used in ~~this act~~ K.S.A. 65-177 through 65-179, and amendments thereto, shall be construed to include all facts, information, records of interviews, written reports, statements, notes, or memoranda secured in connection with an authorized medical research study.

(b) The secretary of health and environment ~~may~~ shall receive data secured in connection with medical research studies conducted for the purpose of reducing morbidity or mortality from maternal, perinatal and anesthetic causes. Such studies may be conducted by the secretary of health and environment and his staff or with other qualified persons, agencies or organizations. *If such studies are conducted with any funding not provided by the state of Kansas, then the source of such funding shall be clearly identified in such study.* Where authorization to conduct such a study is granted by the secretary of health and environment, all data voluntarily made available to the secretary of health and environment in connection with such study shall be treated as confidential and shall be used solely for purposes of medical research. Research files and opinions expressed upon the evidence found in such research shall not be admissible as evidence in any action in any court or before any other tribunal. ~~Provided, however, That any, except that~~ statistics or tables resulting from such data shall be admissible and may be received as evidence. ~~Provided, That this act.~~ *This section shall not affect the right of any patient or his such patient's guardians, representatives or heirs to require hospitals, physicians, sanatoriums, rest homes, nursing homes or other persons or agencies to furnish his such patient's hospital record to his such patient's representatives upon written authorization, or the admissibility in evidence thereof.*

(c) No employee of the secretary of health and environment shall interview any patient named in any such report, nor any relative of any such patient. ~~Provided, That, unless otherwise provided in K.S.A. 65-2422d, and amendments thereto.~~ Nothing in this ~~act~~ section shall prohibit the publication by the secretary of health and environment or a duly authorized cooperating person, agency or organization, of final reports or statistical compilations derived from morbidity or mortality studies, which reports or compilations do not identify individuals, associations, corporations or institutions which were the subjects of such studies, or reveal sources of information.

Sec. 2. K.S.A. 65-2402 is hereby amended to read as follows: 65-2402. (a) The secretary shall: (1) Establish within the division of health suitable offices properly equipped for the preservation of official records. (2) Maintain a complete cross-index on all records filed under the provisions of this act. (3) Install a statewide system of vital statistics. (4) Make and may amend, after notice and hearing, necessary regulations, give instructions and prescribe forms for collection, transcribing, compiling and preserving vital statistics. (5) Enforce this act and the regulations made pursuant thereto.

(b) Any person offered a position of employment in the office of vital statistics, subject to a criminal history records check, shall be given a written notice that a criminal history records check is required. The secretary shall require such applicant to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The secretary shall submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the secretary in taking and processing of fingerprints of applicants. The secretary may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the applicant and in the official determination of the eligibility of the applicant to perform tasks within the office of vital statistics. If the criminal history record information is used to disqualify an applicant, the applicant shall be informed in writing of that decision.

Sec. 3. K.S.A. 2009 Supp. 65-2422d is hereby amended to read as follows: 65-2422d.

(a) The records and files of the division of health pertaining to vital statistics shall be open to inspection, subject to the provisions of ~~this~~ the uniform vital statistics act and rules and regulations of the secretary. It shall be unlawful for any officer or employee of the state to disclose data contained in vital statistical records, except as authorized by ~~this~~ the uniform vital statistics act and the secretary, and it shall be unlawful for anyone who possesses, stores or in any way handles vital statistics records under contract with the state to disclose any data contained in the records, except as authorized by law.

(b) No information concerning the birth of a child shall be disclosed in a manner that enables determination that the child was born out of wedlock, except upon order of a court in a case where the information is necessary for the determination of personal or property rights and then only for that purpose, or except that employees of the office of child support enforcement of the federal department of health and human services shall be provided information when the information is necessary to ensure compliance with federal reporting and audit requirements pursuant to title IV-D of the federal social security act or except that the secretary of social and rehabilitation services or the secretary's designee performing child support enforcement functions pursuant to title IV-D of the federal social security act shall be provided information and copies of birth certificates when the information is necessary to establish parentage in legal actions or to ensure compliance with federal reporting and audit requirements pursuant to title IV-D of the federal social security act. Nothing in this subsection shall be construed as exempting such employees of the federal department of health and human services or the secretary of social and rehabilitation services or the secretary's designee from the fees prescribed by K.S.A. 65-2418, and amendments thereto.

(c) Except as provided in subsection (b), and amendments thereto, the state registrar shall not permit inspection of the records or issue a certified copy or abstract of a certificate or part thereof unless the state registrar is satisfied the applicant therefor has a direct interest in the matter recorded and the information contained in the record is necessary for the determination of personal or property rights. The state registrar's decision shall be subject, however, to review by the secretary or by a court in accordance with the *Kansas judicial review* act for judicial review and civil enforcement of agency actions, subject to the limitations of this section.

(d) The secretary shall permit the use of data contained in vital statistical records for research purposes only, but no identifying use of them shall be made. *The secretary shall permit the use of birth, death and still birth certificates as identifiable data for purposes of maternal and child health surveillance and monitoring. The secretary or the secretary's designee may interview individuals for purposes of maternal and child health surveillance and monitoring only with an approval of the health and environmental institutional review board as provided in title 45, part 46 of the code of federal regulations. The secretary shall inform such individuals that the participation in such surveillance and monitoring is voluntary and may only be conducted with the written consent of the person who is the subject of the information or with the informed consent of a parent or legal guardian if the*

*person is under 18 years of age. Informed consent is not required if the person who is the subject of the information is deceased.*

(e) Subject to the provisions of this section the secretary may direct the state registrar to release birth, death and stillbirth certificate data to federal, state or municipal agencies.

(f) On or before the 20th day of each month, the state registrar shall furnish to the county election officer of each county and the clerk of the district court in each county, without charge, a list of deceased residents of the county who were at least 18 years of age and for whom death certificates have been filed in the office of the state registrar during the preceding calendar month. The list shall include the name, age or date of birth, address and date of death of each of the deceased persons and shall be used solely by the election officer for the purpose of correcting records of their offices and by the clerk of the district court in each county for the purpose of correcting juror information for such county. Information provided under this subsection to the clerk of the district court shall be considered confidential and shall not be disclosed to the public. The provisions of subsection (b) of K.S.A. 45-229, and amendments thereto, shall not apply to the provisions of this subsection.

(g) No person shall prepare or issue any certificate which purports to be an original, certified copy or abstract or copy of a certificate of birth, death or fetal death, except as authorized in this act or rules and regulations adopted under this act.

(h) Records of births, deaths or marriages which are not in the custody of the secretary of health and environment and which were created before July 1, 1911, pursuant to chapter 129 of the 1885 Session Laws of Kansas, and any copies of such records, shall be open to inspection by any person and the provisions of this section shall not apply to such records.

(i) Social security numbers furnished pursuant to K.S.A. 65-2409a and amendments thereto shall only be used as permitted by title IV-D of the federal social security act and amendments thereto or as permitted by section 7(a) of the federal privacy act of 1974 and amendments thereto. The secretary shall make social security numbers furnished pursuant to K.S.A. 65-2409a and amendments thereto available to the department of social and rehabilitation services for purposes permitted under title IV-D of the federal social security act.

(j) Fact of death information may be disseminated to state and federal agencies administering benefit programs. Such information shall be used for file clearance purposes only.

Sec. 4. K.S.A. 65-177 and 65-2402 and K.S.A. 2009 Supp. 65-2422d and 65-2422d, as amended by section 138 of 2010 Senate Bill No. 376, are hereby repealed.”;

And by renumbering the remaining section accordingly;

Also on page 8, in line 16, by striking “statute book” and inserting “Kansas register”;

In the title, in line 10, by striking all after “concerning”; by striking all in lines 11 and 12 and inserting “the secretary of health and environment; relating to office of vital statistics; amending K.S.A. 65-177 and 65-2402 and K.S.A. 2009 Supp. 65-2422d and repealing the existing sections; also repealing K.S.A. 2009 Supp. 65-2422d, as amended by section 138 of 2010 Senate Bill No. 376.”;

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

THOMAS C. OWENS

DEREK SCHMIDT

DAVID HALEY

*Conferees on part of Senate*

PAT COLLOTON

JOE PATTON

MELODY MCCRAY-MILLER

*Conferees on part of House*

Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2454**.  
On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

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

The Conference Committee report was adopted.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Senate Substitute for HB 2582**, 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 further amendments by Senate Committee of the Whole, as follows:

On page 1, by striking all in lines 26 through 43;

By striking all on pages 2 through 31;

On page 32, by striking all in lines 1 through 13 and inserting the following:

“Section 1. K.S.A. 12-5301 is hereby amended to read as follows: 12-5301. As used in this act, unless the context otherwise requires:

(a) “Emergency telephone service” means a telephone system utilizing a single three digit number “911” for reporting police, fire, medical or other emergency situations;

(b) “emergency telephone tax” means a tax to finance the operation of emergency telephone service;

(c) “exchange access facilities” means all facilities provided by the service supplier for the facility which provides local telephone exchange access to a service user;

(d) “local collection point administrator (LCPA)” means the statewide association of cities established by K.S.A. 12-1610e, and amendments thereto, and the statewide association of counties established by K.S.A. 19-2690, and amendments thereto;

~~(e)~~ (e) “tariff rate” means the rate or rates billed by a service supplier and as stated in the service supplier’s tariffs, approved by the state corporation commission which represent the service supplier’s recurring charges for exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever;

~~(f)~~ (f) “public agency” means any city, county, municipal corporation, public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services;

~~(g)~~ (g) “governing body” means the board of county commissioners of a county or the governing body of a city;

~~(h)~~ (h) “person” means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy or any other service user;

~~(i)~~ (i) “service supplier” means any person providing exchange telephone services or wireless service to any service user in this state;

~~(j)~~ (j) “service user” means any person who is provided exchange telephone service or wireless in this state;

(k) “subscriber radio equipment” means mobile and portable radio equipment installed in vehicles or carried by persons for voice communication with a radio system;

~~(l)~~ (l) “wireless carrier” means any common, private or other radio carrier licensed by the federal communications commission to provide two-way voice or text radio service in this state which provides interconnection to the public switched telephone network and access to a 24-hour answering point;

~~(m)~~ (m) “wireless service” means a two-way voice or text radio service provided by a wireless carrier; and

~~(n)~~ (n) “PSAP” means public safety answering point.

Sec. 2. K.S.A. 12-5304 is hereby amended to read as follows: 12-5304. (a) Any governing body imposing the tax authorized by K.S.A. 12-5302, and amendments thereto, may contract directly with the provider of the emergency telephone service or may contract and cooperate with any public agency or with other states or their political subdivisions or with any association or corporation for their political subdivisions or with any association or corporation for the administration of emergency telephone service as provided by law.

(b) Funds collected from tax imposed pursuant to K.S.A. 12-5302, and amendments thereto, shall be spent solely to pay for any or all of the following: (1) The monthly recurring charges billed by the service supplier for the emergency telephone service; (2) initial installation, service establishment; nonrecurring start-up charges billed by the service supplier for the emergency telephone service; (3) charges for capital improvements and equipment or other physical enhancements to the emergency telephone system, *not to include subscriber radio equipment*; or (4) the acquisition and installation of road signs designed to aid in the delivery of emergency service.

(c) *Prior to January 10, 2011, every PSAP shall provide to the LCPA an accounting of all PSAP's receipts from the governing body during the 2010 calendar year.*

Sec. 3. K.S.A. 2009 Supp. 12-5322 is hereby amended to read as follows: 12-5322. As used in the wireless enhanced 911 act, unless the context otherwise requires:

(a) "Advisory board" means the wireless enhanced 911 advisory board established under K.S.A. 2009 Supp. 12-5326, and amendments thereto.

(b) "Automatic number identification" means a feature by which a person calling a public safety answering point has such person's 10-digit telephone number simultaneously forwarded to the public safety answering point and to the public safety answering point's display and transfer.

(c) "Eligible municipality" means: (1) Any county having a population of less than 75,000 or any city located within such a county; or (2) any two or more such counties or cities.

(d) "Emergency telephone service" means a telephone system utilizing a single three digit number "911" for reporting police, fire, medical or other emergency situations.

(e) "Enhanced 911 service" means an emergency telephone service that generally may provide, but is not limited to, selective routing, automatic number identification and automatic location identification features.

(f) "Exchange access facilities" means all facilities provided by the service supplier for the facility which provides local telephone exchange access to a service user.

(g) "Fund" means the wireless enhanced 911 grant fund established by this act.

(h) "Governing body" means the board of county commissioners of a county or the governing body of a city.

(i) "Local collection point administrator" means the statewide association of cities as established by K.S.A. 12-1610e, and amendments thereto, and the statewide association of counties as established by K.S.A. 19-2690, and amendments thereto.

(j) "Mobile telephone number" means the telephone number assigned to a wireless telephone at the time of initial activation.

(k) "Person" means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy or any other legal entity.

(l) "Prepaid wireless telephone service" means wireless telephone service that is activated in advance by payment for a finite dollar amount of service or for a finite set of minutes that terminate either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless additional payments are made.

(m) "Primary place of use" has the meaning provided in the mobile telecommunications act (4 U.S.C. 116, et seq., as in effect on the effective date of this act).

(n) "Project" means the development and acquisition of the necessary improvements in order to facilitate the establishment of wireless enhanced 911 service.



(o) "Project costs" means all costs or expenses which are necessary or incident to a project and which are directly attributable thereto.

(p) "PSAP" means public safety answering point.

(q) "Pseudo-automatic number identification" means a feature by which automatic number identification is provided to a public safety answering point of the 10-digit telephone number of the specific cell site or cell site sector from which a wireless call originated.

(r) "Public agency" means any city, county, municipal corporation, public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services.

(s) "Secretary" means the secretary of administration.

(t) "Service supplier" means any person providing exchange telephone service to any service user in this state.

(u) "Service user" means any person who is provided exchange telephone service or wireless service in this state.

(v) "Subscriber account" means the 10-digit access number assigned to a wireless service customer regardless of whether more than one such number is aggregated for the purpose of billing a service user.

(w) *"Subscriber radio equipment" means mobile and portable radio equipment installed in vehicles or carried by persons for voice communication with a radio system.*

~~(w)~~(x) "Tariff rate" means the rate or rates billed by a service supplier and as stated in the service supplier's tariffs, approved by the state corporation commission which represent the service supplier's recurring charges for exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever.

~~(x)~~(y) "Valid request" means a request to a wireless carrier for wireless enhanced 911 service, made by a PSAP which is capable of receiving and utilizing the data elements associated with wireless enhanced 911 service as determined in accordance with 47 CFR 20.18 (October 1, 2002).

~~(y)~~(z) "Wholesaler of prepaid wireless service" means a person who purchases at wholesale wireless service from a wireless carrier for resale as prepaid wireless service.

~~(z)~~(aa) "Wireless automatic location identification information" means a feature by which information is provided to a public safety answering point identifying the location of a 911 caller within the parameters established by the federal communications commission.

~~(aa)~~(bb) "Wireless carrier" means any common, private or other radio carrier licensed by the federal communications commission to provide two-way voice service in this state which provides interconnection to the public switched telephone network and access to a 24-hour answering point.

~~(bb)~~(cc) "Wireless enhanced 911 grant fee" means the fee imposed under K.S.A. 2009 Supp. 12-5324, and amendments thereto.

~~(cc)~~(dd) "Wireless enhanced 911 local fee" means the fee imposed under K.S.A. 2009 Supp. 12-5330, and amendments thereto.

~~(dd)~~(ee) "Wireless enhanced 911 service" means a communication service by which wireless carriers can provide automatic number identification, pseudo-automatic number identification and wireless automatic location identification information to a requesting PSAP, as defined in FCC docket 94-102, which is capable of receiving and utilizing the data elements associated with wireless enhanced 911 service.

~~(ee)~~(ff) "Wireless service" means a two-way voice service provided by a wireless carrier.  
Sec. 4. K.S.A. 2009 Supp. 12-5330 is hereby amended to read as follows: 12-5330. (a) Effective July 1, 2004, there is hereby imposed a wireless enhanced 911 local fee. Subject to the provisions of K.S.A. 2009 Supp. 12-5338, and amendments thereto, the amount of such fee shall be \$.25 per month per wireless subscriber with primary place of use in the state of Kansas. Such fee shall not be imposed on prepaid wireless service.

(b) Subject to the provisions of K.S.A. 2009 Supp. 12-5338, and amendments thereto, the proceeds of the wireless enhanced 911 local fee, and any interest earned on revenue derived from such fee, shall be used only for necessary and reasonable costs incurred or to be incurred by PSAP's for: (1) Implementation of wireless enhanced 911 service and VoIP enhanced 911 service; (2) purchase of equipment and upgrades and modification to

equipment used solely to process the data elements of wireless enhanced 911 service and VoIP enhanced 911 service; and (3) maintenance and license fees for such equipment and training of personnel to operate such equipment, including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities. Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities or for other capital outlay, *subscriber radio equipment*, or *other* equipment not expressly authorized by this act.

(c) Each PSAP shall submit to the secretary an annual report accounting for the money received by the PSAP from the wireless enhanced 911 local fee. Such report shall be submitted on a form provided by the secretary.

(d) (1) Subject to the provisions of subsection (d)(3), each PSAP shall submit to wireless carriers a valid request for wireless enhanced 911 service by July 1, 2007.

(2) Subject to the provisions of subsection (d)(3), if a PSAP has not submitted to wireless carriers a valid request for wireless enhanced 911 service by July 1, 2007: (A) Such PSAP shall pay to the secretary all moneys from the wireless enhanced 911 local fee which have been or are received by such PSAP; (B) the secretary shall notify the local collection point administrator that the PSAP has not made a valid request when required and that distributions of moneys from the wireless enhanced 911 local fee to the PSAP shall be stopped and that such moneys shall be instead remitted to the secretary until the secretary notifies the local collection point administrator that the PSAP has made a valid request; (C) the PSAP thereafter shall not be eligible to receive moneys from the fund or from distributions by the local collection point administrator until the PSAP has submitted to the secretary evidence satisfactory to the secretary that the PSAP has submitted to wireless carriers a valid request for wireless enhanced 911 service. The secretary shall remit any moneys received from the repayment by the PSAP or from distributions by the local collection point administrator to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the wireless enhanced 911 grant fund.

(3) If a PSAP is unable to make a valid request by July 1, 2007, the advisory board may approve not to exceed two one-year extensions of such date to not later than July 1, 2008, if the advisory board determines that: (A) Equipment necessary to receive and utilize the data elements associated with wireless enhanced 911 service has been ordered by the PSAP but is unavailable; or (B) there is other just cause to extend the date.

Sec. 5. K.S.A. 2009 Supp. 12-5338 is hereby amended to read as follows: 12-5338. (a) On July 1, ~~2010~~ 2011:

(1) The wireless enhanced 911 grant fee shall be discontinued, the advisory board shall be abolished, any unobligated balance of the wireless enhanced 911 grant fund shall be paid to the local collection point administrator for distribution to PSAP's based on the population of the municipality or municipalities served by the respective PSAP and the fund shall be abolished.

(2) Within any county which has a population of 125,000 or more, the amount of the tax imposed pursuant to K.S.A. 12-5302, and amendments thereto, shall not exceed \$.25 per month per access line or its equivalent and the amount of the wireless enhanced 911 local fee within such jurisdiction shall be an equal amount per month per wireless subscriber account.

(3) Within any county which has a population of less than 125,000 the amount of the tax imposed to K.S.A. 12-5302, and amendments thereto, shall not exceed \$.50 per month per access line or its equivalent and the amount of the wireless enhanced 911 local fee shall be an equal amount per month per wireless subscriber account.

(4) The provisions of K.S.A. 2009 Supp. 12-5323 through 12-5329, and amendments thereto, shall expire.

(b) On and after July 1, ~~2010~~ 2011, the proceeds of the wireless enhanced 911 local fee shall be used only to pay for costs of emergency telephone service described in K.S.A. 12-5304, and amendments thereto, and expenditures authorized by K.S.A. 2009 Supp. 12-5330, and amendments thereto.

Sec. 6. K.S.A. 2009 Supp. 12-5361 is hereby amended to read as follows: 12-5361. (a) On July 1, ~~2010~~ 2011:

(1) The VoIP enhanced 911 grant fee shall be discontinued.

(2) The amount of the tax per access line or its equivalent imposed within a jurisdiction pursuant to K.S.A. 12-5302, and amendments thereto, and the amount of the VoIP enhanced 911 local fee per VoIP subscriber whose primary residence is within such jurisdiction shall be an equal amount per month.

(3) The provisions of K.S.A. 2009 Supp. 12-5354 and 12-5355, and amendments thereto, shall expire.

(b) On and after July 1, ~~2010~~ 2011, the proceeds of the VoIP local fee shall be used only to pay for costs of emergency telephone service described in K.S.A. 12-5304, and amendments thereto, and expenditures authorized by K.S.A. 2009 Supp. 12-5330, and amendments thereto.

Sec. 7. K.S.A. 12-5301 and 12-5304 and K.S.A. 2009 Supp. 12-5322, 12-5330, 12-5338 and 12-5361 are hereby repealed.”;

And by renumbering the remaining section accordingly;

In the title, in line 15, by striking all after “amending”; by striking all in lines 6 through 23 and inserting “K.S.A. 12-5301 and 12-5304 and K.S.A. 2009 Supp. 12-5322, 12-5330, 12-5338 and 12-5361 and repealing the existing sections.”;

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

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

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

Senator Apple moved the Senate adopt the Conference Committee Report on **S Sub for HB 2582**.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

The Conference Committee report was adopted.

#### EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **S Sub for HB 2582** only to advance the funding for another year. It is with great disappointment that I vote on this version of the bill which really prevents Kansas from moving forward to plan and provide for next generation 911 services. The work of the Senate committee was commendable but will need the cooperation of the House committee in 2011 to insure Kansans continue to have quality emergency services. — KARIN BROWNLEE

#### REPORT ON ENGROSSED BILLS

**SB 54** reported correctly engrossed May 4, 2010.

#### REPORTS OF STANDING COMMITTEES

Committee on Financial Institutions and Insurance begs leave to submit the following report:

The following appointments were referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointments:

By the Governor:

Pooled Money Investment Board: K.S.A. 2009 Supp. 75-4221a

John W. Lehman, term expires March 15, 2014

State Banking Board: K.S.A. 74-3004

Richard L. Fish, term expires March 15, 2012

#### 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 Owens in the chair.

On motion of Senator Owens the following report was adopted:

**SB 586** be amended by adoption of the committee amendments, and the bill be passed as amended.

#### 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 **SB 586** was advanced to Final Action and roll call.

**SB 586**, An act reconciling amendments to certain statutes; amending K.S.A. 8-2410, as amended by section 2 of 2010 House Bill No. 2547, 21-3447, as amended by section 4 of 2010 House Bill No. 2435, 21-4643, as amended by section 18 of 2010 House Bill No. 2435, 22-4906, as amended by section 1 of 2010 House Bill No. 2468, 65-6a34a, as amended by section 8 of 2010 Senate Bill No. 393, and 65-7216, as amended by section 171 of 2010 Senate Bill No. 376, and K.S.A. 2009 Supp. 8-1567, 21-36a05, as amended by section 2 of 2010 House Bill No. 2661, 21-36a10, as amended by section 5 of 2010 House Bill No. 2661, 21-4204, as amended by section 7 of 2010 House Bill No. 2661, 21-4704, as amended by section 9 of 2010 House Bill No. 2661, 22-4902, as amended by section 11 of 2010 House Bill No. 2661, 28-172a, as amended by section 7 of 2010 Senate Substitute for House Bill No. 2476, 38-2242, as amended by section 5 of 2010 House Bill No. 2364, 38-2243, as amended by section 6 of 2010 House Bill No. 2364, 38-2305, as amended by section 4 of 2010 House Bill No. 2195, 38-2361, as amended by section 9 of 2010 House Bill No. 2364, 40-3104, as amended by section 1 of 2010 House Bill No. 2492, 47-2101, as amended by section 4 of 2010 House Bill No. 2666, 65-516, as amended by section 13 of 2010 House Bill No. 2661, 72-978, as amended by section 3 of 2010 Senate Bill No. 357, 74-596, as amended by section 179 of 2010 Senate Bill No. 376, 74-2426, as amended by section 182 of 2010 Senate Bill No. 376, and 75-6606, as amended by section 3 of 2010 Senate Bill No. 30, and repealing the existing sections; also repealing K.S.A. 8-1567, as amended by section 6 of chapter 107 of the 2009 Session Laws of Kansas, 8-2410, as amended by section 20 of 2010 Senate Bill No. 376, 21-3447, as amended by section 2 of 2010 Substitute for Senate Bill No. 353, 21-4643, as amended by section 3 of 2010 Substitute for Senate Bill No. 353, 22-4906, as amended by section 5 of 2010 Substitute for Senate Bill No. 353, 65-6a34a, as amended by section 124 of 2010 Senate Bill No. 376, and 65-7216, as amended by section 12 of 2010 Senate Bill No. 83, and K.S.A. 2009 Supp. 21-36a05, as amended by section 14 of 2010 House Bill No. 2435, 21-36a10, as amended by section 15 of 2010 House Bill No. 2435, 21-4204, as amended by section 3 of 2010 Substitute for Senate Bill No. 67, 21-4704, as amended by section 19 of 2010 House Bill No. 2435, 22-4902, as amended by section 4 of 2010 Substitute for Senate Bill No. 353, 25-4156b, 28-172a, as amended by section 6 of 2010 Senate Bill No. 519, 38-2242, as amended by section 9 of 2010 Senate Bill No. 460, 38-2243, as amended by section 10 of 2010 Senate Bill No. 460, 38-2305, as amended by section 19 of 2010 Senate Bill No. 460, 38-2305, as amended by section 7 of 2010 Senate Bill No. 519, 38-2361, as amended by section 20 of 2010 Senate Bill No. 460, 38-2361, as amended by section 6 of 2010 Substitute for Senate Bill No. 353, 40-3104, as amended by section 4 of 2010 Senate Bill No. 533, 47-2101, as amended by section 92 of 2010 Senate Bill No. 376, 65-516, as amended by section 122 of 2010 Senate Bill No. 376, 65-1643c, 72-978, as amended by section 2 of 2010 Senate Bill No. 359, 74-596, as amended by section 10 of 2010 Senate Bill No. 393, 74-2426, as amended by section 30 of 2010 House Bill No. 2557, and 75-6606, as amended by section 1 of 2010 House Bill No. 2415.

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

Yeas: Abrams, Apple, Barnett, Brownlee, Bruce, Brungardt, Colyer, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huelskamp, Huntington, 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.

The bill passed, as amended.

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.

Committee on **Transportation** recommends **HB 2650** as amended by substituting a new bill as recommended by the Senate Committee on Transportation as reported in the Journal of the Senate on March 30, 2010, and further amended by substituting a new bill as recommended by the Senate Committee on Transportation as reported in the Journal of the Senate on April 30, 2010, and further recommends that Senate Substitute for Senate Substitute for House Bill No. 2650 be amended on page 6, in line 21, by striking all after "\$11"; in line 22, by striking all before the semicolon; in line 23, by striking all after "\$16"; in line 24, by striking "\$36"; in line 28, by striking ", on"; in line 29, by striking all before the semicolon; in line 30, by striking the comma, where it appears for the second time; in line 31, by striking all before the semicolon; in line 35, by striking ", on January 1, 2013, \$24, on January 1, 2014, \$34";

On page 8, in line 14, by striking "\$50" and inserting "\$40";

On page 9, in line 1, by striking "\$60" and inserting "\$40";

On page 18, in line 23, by striking "\$10" and inserting "\$3";

On page 26, by striking all in lines 20 through 43;

On page 27, by striking all in lines 1 through 6;

On page 28, by striking all in lines 34 through 43;

By striking all on page 29;

On page 30, by striking all in lines 1 through 26;

On page 32, by striking all in lines 37 through 43;

By striking all on pages 33 through 35;

On page 36, by striking all in lines 1 through 27;

And by renumbering sections accordingly;

On page 62, in line 40, by striking "8-"; in line 41, by striking "195,"; also in line 41, by striking "8-2409,"; in line 43, by striking "8-143l,"; also in line 43, by striking "8-172, 8-2406, 8-2425,";

In the title, in line 13, by striking "8-195,"; also in line 13, by striking "8-2409,"; in line 15, by striking "8-143l,"; also in line 15, by striking "8-172, 8-"; in line 16, by striking "2406, 8-2425,";

And the substitute bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 10:00 a.m., Wednesday, May 5, 2010.

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

PAT SAVILLE, *Secretary of the Senate.*

