

# Journal of the Senate

SEVENTY-SECOND DAY

---

SENATE CHAMBER, TOPEKA, KANSAS  
Monday, May 7, 2001—12:00 Noon

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

Heavenly Father,

When we're dealing with issues  
With which we feel strong,  
And we believe our opponents  
Are incredibly wrong.

When we cannot conceive  
How a rational person  
Can hold to ideas  
Which make things worsen.

Then add to that  
A dose of fatigue,  
And it's easy to grow bitter  
Toward a colleague.

Then is the time  
That we need You, Lord,  
To keep self in control  
And not sow discord.

In just a few minutes  
Let us not jeopardize  
Good relationships which  
For months we have prized.

I ask this in the Name of Christ, the Supreme Mediator,

AMEN

## ORIGINAL MOTION

Senator Oleen 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: **HB 2063**.

## CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 19**, 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 by striking all in lines 5 through 43;

By striking all on pages 4 through 6 and inserting the following:

"Sec. 3. (a) Commencing in plan year 2002, within the limits of appropriations thereof, the Kansas state employees health care commission shall establish a pilot program which provides that, if an active employee of the state of Kansas is enrolled in a health care benefits plan administered by the Kansas state employees health care commission, pursuant to K.S.A. 75-6501 *et seq.*, and amendments thereto, the commission shall provide that a percentage determined by the commission, within the limits of appropriations for the pilot program, of the cost to cover an eligible child or children shall be paid as an employer contribution for the participation of any eligible child or children in the state health benefits program.

(b) As used in this section, "eligible child" means any child who is an eligible dependent pursuant to K.A.R. 108-1-1 and who is otherwise eligible for insurance coverage under the insurance plan authorized by K.S.A. 38-2001 and amendments thereto and under the guidelines for eligibility developed by the commission within the limits of appropriations for the pilot program but is not eligible solely because the child is a member of a family that is eligible for health benefits coverage under a state health benefits plan administered by the Kansas state employees health care commission.

(c) The Kansas state employees health care commission shall report its findings and any recommendations which the commission may have concerning the pilot program established under this section to the governor and to the legislature annually.

(d) The secretary of administration is hereby authorized to receive grants, gifts or donations from the United States government, or its agencies, the Sunflower Foundation: Healthcare for Kansas, or any other source whatsoever for the purposes of the pilot program established under this section and amendments thereto, and any moneys so received shall be deposited in the state treasury and credited to the cafeteria benefits fund established by K.S.A. 75-6513 and amendments thereto. All funds received pursuant to this section shall be placed in a separate account within the cafeteria benefits fund. All expenditures made from such fund for the purposes of this section shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued by the secretary of administration or a person designated by the secretary of administration.";

By renumbering the remaining section accordingly:

On page 1, in the title, in line 16, by striking "insurance"; in line 17, by striking "; relating to cover-"; by striking all in lines 18 and 19; in line 20, by striking all before the period and inserting "and relating to the state employees health benefits program";

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

ROBERT TOMLINSON  
STANLEY DREHER  
NANCY KIRK  
*Conferees on part of House*

SANDY PRAEGER  
RUTH TEICHMAN  
PAUL FELECIANO, JR.  
*Conferees on part of Senate*

Senator Praeger moved the Senate adopt the Conference Committee Report on **SB 19**.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jackson, Jenkins, Jordan, Kerr, Lee, Morris, Oleen, Praeger, Salmans, Schmidt, Schodorf, Steiner, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Lyon, O'Connor, Pugh, Tyson.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: Presented as a simple measure to allow a woman to visit her OB/GYN on an annual basis without a referral from her primary care physician, **SB 19** appears to have been written too broadly and may cover more than just the annual pap smear and

other routine checkups. While I am in favor of making a routine visit to the doctor as least intrusive as possible, I fear that the language in this bill may go beyond this clear intention.

However, numerous assurances and answers were given both in committee and during floor debate that abortion will not be mandated coverage under this bill, nor will a minor child be able to receive an abortion and have it covered by her parents' or guardians' health insurance. Thus it is clear that the intent of this legislation is NOT to provide access to abortion or force insurance companies to pay for abortion.

However, I remain concerned that future interpretations of **SB 19** may try to expand this legislation beyond this original intent. Thus, I must vote "No."—TIM HUELSKAMP

Senators Lyon, O'Connor and Tyson request the record to show they concur with the "Explanation of Vote" offered by Senator Huelskamp on **SB19**.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 321**, submits the following report:

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

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

KENNY A. WILK  
MELVIN NEUFELD  
ROCKY NICHOLS  
*Conferees on part of House*

STEPHEN R. MORRIS  
DAVID ADKINS  
PAUL FELECIANO, JR.  
*Conferees on part of Senate*

Senator Morris moved the Senate adopt the Conference Committee Report on **SB 321**.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, 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 **HB 2063**, 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 6, after line 7, by inserting the following:

"Sec. 2. K.S.A. 79-2801 is hereby amended to read as follows: 79-2801. (a) Except as provided by K.S.A. 79-2811, *and amendments thereto*, whenever real estate has been or shall be sold and bid in by the county at any delinquent tax sale and remains unredeemed on September 1 of the second year after the sale, or any extension thereof as provided by subsection (b) of K.S.A. 79-2401a, and amendments thereto, or whenever real estate described by subsection (a)(2) of K.S.A. 79-2401a, and amendments thereto, has been or shall be sold and bid in by the county at any delinquent tax sale and remains unredeemed on September 1 of the first year after the sale, the board of county commissioners shall order the county attorney or county counselor and it shall be the duty of the county attorney or county counselor to institute an action in the district court, in the name of the board of county commissioners, against the owners or supposed owners of the real estate and all persons having or claiming to have any interest therein or thereto, by filing a petition with the clerk of the court. The board of county commissioners may provide for special legal and

other assistance necessary to secure the timely performance of duties required by this act. Whenever the real estate involved is a mineral interest in land which has been severed from the fee, the bringing of the action for the foreclosure of the mineral interest shall be within the discretion of the board of county commissioners. Whenever the aggregate assessed valuation of the real estate subject to sale is less than \$300,000, or the aggregate amount of delinquent taxes, including special assessments, is less than \$10,000, the bringing of the action shall be within the discretion of the board of county commissioners. The petition shall contain a description of each tract, lot or piece of real estate including, if in a city of the first or second class, the street number or location. The petition shall state, as far as practicable, the amount of taxes, charges, interest and penalties chargeable to each tract, lot or piece of real estate, the name of the owner, supposed owner and party having or claiming to have any interest therein or thereto, and giving the year the real estate was sold for delinquent taxes under the provisions of K.S.A. 79-2302, and amendments thereto. The petition shall request that the court determine the amount of taxes, charges, interest and penalties chargeable to each particular tract, lot or piece of real estate, the name of the owner or party having any interest therein ~~and~~. *The petition also shall request that the court adjudge and decree the amount due to be a first and prior lien upon the real estate and that the same be sold at public sale for the satisfaction of the lien, costs, charges and expenses of the proceedings and sale and other necessary relief. The petition shall be filed in duplicate and a copy delivered by the clerk to the county treasurer, who thereafter shall accept no payments of taxes upon the real estate included in the petition except as provided by K.S.A. 79-2801 to 79-2810, inclusive, and amendments thereto.*

A summons shall be issued and personally served or publication made as provided in other cases under the code of civil procedure. If service is made by publication, the notice, in addition to the requirements prescribed by the code of civil procedure, shall contain a description of the real estate. Any member of the board of county commissioners, county attorney or county counselor who fails to perform the duties required by this section shall forfeit the office held by the officer. Any person may secure enforcement of the provisions of this act through mandamus. Such proceeding shall be initiated by filing a petition in a court of competent jurisdiction.

(b) The governing body of any city may provide for the rendering of legal and other assistance to the county attorney or county counselor to secure the expeditious judicial foreclosure of real estate on which there is unredeemed delinquent tax liens, including delinquent special assessments. The provision of such services by the city shall not relieve any county officer of the requirement to perform the duties required by this act. The actual and necessary costs incurred by a city in providing such assistance shall be considered as costs incident to the sale of the real estate and the city may be reimbursed therefor from the proceeds of the sale in an amount apportioned pursuant to K.S.A. 79-2805, and amendments thereto.

(c) *If the board of county commissioners fails to initiate proceedings for a judicial tax foreclosure sale on property located within the corporate limits of a city and if the taxes on such property have remained delinquent for at least three years after such property first becomes eligible for sale by the county at a judicial tax foreclosure sale pursuant to K.S.A. 79-2801 et seq., and amendments thereto, the governing body of the city in which such property is located may initiate a judicial tax foreclosure sale on such property. The governing body of such city shall have the same powers and duties of the board of county commissioners under K.S.A. 79-2801 et seq., and amendments thereto, which are necessary to effectuate the sale of such property. The city attorney of such city shall have the same powers and duties of the county attorney or county counselor under K.S.A. 79-2801 et seq., and amendments thereto, relating to the judicial tax foreclosure sale of such property. All other county officers shall perform the duties prescribed by law relating to the sale of such property in the same manner as if such sale had been initiated by the board of county commissioners.*

New Sec. 3. Notwithstanding the provisions of any law to the contrary, the tax imposed upon a motor vehicle pursuant to K.S.A. 79-5101 et seq., and amendments thereto, which is delinquent and more than one year past due, and any penalty and interest resulting from such delinquency, shall be canceled and forgiven if such vehicle is donated to a nonprofit

charitable organization which is exempt from payment of federal income tax. In the event any such vehicle is purchased from any such organization by the donor, or on behalf of the donor, of such vehicle, liability for all such tax, interest and penalty shall vest in such purchaser, and shall be collected in the manner prescribed by K.S.A. 79-5116, and amendments thereto.”;

By renumbering existing sections accordingly;

Also on page 6, in line 8, after “K.S.A.” by inserting “79-2801 and K.S.A.”; also in line 8, by striking “is” and inserting “are”;

In the title, in line 10, by striking all after the semicolon; in line 11, by striking all before “amending”; also in line 11, after “K.S.A.” by inserting “79-2801 and K.S.A.”; in line 12, by striking “section” and inserting “sections”;

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

DAVID R. CORBIN

LYNN JENKINS

JANIS K. LEE

*Conferees on part of Senate*

JOHN EDMONDS

DAVID HUFF

BRUCE LARKIN

*Conferees on part of House*

Senator Corbin moved the Senate adopt the Conference Committee Report on **HB 2063**.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Haley.

The Conference Committee report was adopted.

#### **CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR**

On motion of Senator Clark the Senate nonconcurred in the House amendments to **H Sub for SB 112** and requested a conference committee be appointed.

The President appointed Senators Clark, Emler and Barone as a conference committee on the part of the Senate.

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

Announcing the House concurs in Senate amendments to **HB 2590** and requests the Senate to return the bill.

The House announces the appointment of Representative Edmonds to replace Representative Huff as a conferee on **House Substitute for SB 332**.

On motion of Senator Oleen, the Senate recessed until 1:00 p.m.

---

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

#### **COMMUNICATIONS FROM STATE OFFICERS**

OFFICE OF THE ATTORNEY GENERAL

State Child Death Review Board

April 2001

On behalf of the State Child Death Review Board, Carla J. Stovall, Attorney General, presented the Board's Annual Report (1998 Data).

The President announced the above report is on file in the office of the Secretary of the Senate and is available for review at any time.

**MESSAGE FROM THE HOUSE**

Announcing the House accedes to the request of the Senate for a conference on **House Substitute for SB 9** and has appointed Representatives T. Powell, Powers and Alldritt as conferees on the part of the House.

The House adopts the Conference Committee Report to agree to disagree on **SB 69** and has appointed Representatives Edmonds, Huff and Larkin as second conferees on the part of the House.

On motion of Senator Oleen, the Senate recessed until 2:30 p.m.

---

The Senate met pursuant to recess with Vice-President Praeger in the chair.

**MESSAGE FROM THE HOUSE**

Announcing the House accedes to the request of the Senate for a conference on **House Substitute for SB 112** and has appointed Representatives Holmes, Sloan and McClure as conferees on the part of the House.

The House adopts the conference committee report on **HB 2063**.

The House adopts the conference committee report on **House Substitute for SB 332**.

On motion of Senator Oleen, the Senate recessed until 5:30 p.m.

---

The Senate met pursuant to recess with Vice-President Praeger in the chair.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 332**, submits the following report:

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

On page 1, by striking all in lines 28 through 43;

By striking all on pages 2 through 24;

On page 25, by striking all in lines 1 through 11 and inserting the following:

“Sec. 2. On and after January 1, 2002, K.S.A. 2000 Supp. 79-3603, as amended by section 5 of 2001 House Bill No. 2221, is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 4.9% and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels

between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001. For the purposes of this subsection the term gross receipts does not include purchases of telephone, telegraph or telecommunications using a prepaid telephone calling card or prepaid authorization number. As used in this subsection, a prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities *but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;*

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 *et seq.*, and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building or facility damaged or destroyed by fire, flood, tornado, lightning, explosion or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or of any municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility; and

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property, except computer software described in subsection (s), which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) the gross receipts received from the sale of computer software, and the sale of the services of modifying, altering, updating or maintaining computer software. As used in this subsection, "computer software" means information and directions loaded into a computer which dictate different functions to be performed by the computer. Computer software includes any canned or prewritten program which is held or existing for general or repeated sale, even if the program was originally developed for a single end user as custom computer software. The sale of computer software or services does not include: (1) The initial sale of any custom computer program which is originally developed for the exclusive use of a single end user; or (2) those services rendered in the modification of computer software when the modification is developed exclusively for a single end user only to the extent of the modification and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements and other billing documents provided to the end user. The services of modification, alteration, updating and maintenance of computer software shall only include the modification, alteration, updating and maintenance of computer software taxable under this subsection whether or not the services are actually provided;

(t) the gross receipts received for telephone answering services, including mobile phone services, beeper services and other similar services;

(u) the gross receipts received from the sale of prepaid telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. A prepaid telephone calling card or prepaid authorization number means the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units, that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed. If the sale or recharge of such card or number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address; if there is no item shipped then it shall be the customer's billing address; and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq., and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July

1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 3. On and after January 1, 2002, K.S.A. 2000 Supp. 79-3606, as amended by section 1 of 2001 House Bill No. 2029, is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, and dry-cleaning and laundry services taxed pursuant to K.S.A. 2000 Supp. 65-34,150, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, ~~water~~, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state *or district described in subsection (s)*, the total cost of which is paid from funds of such political subdivision *or district* and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision *or district*. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state *or any such district*. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, *district described in subsection (s)*, public or private nonprofit hospital or public hospital authority, public or private elementary or sec-

ondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, *district described in subsection (s)*, hospital or public hospital authority, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, *district described in subsection (s)*, hospital or public hospital authority, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using directly or through an authorized agent such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626 and amendments thereto, by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used

to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; such term shall include accessories attached or to be attached to motor vehicles, but such term shall not include motor vehicles or personal property which when installed becomes a fixture to real property;

(s) *except as provided in section 4, and amendments thereto*, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 *et seq.* and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto, which property or services are used in the *construction activities*, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto

by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, non-industrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, ac-

counting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section

501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease; and

(8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period

of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certifi-

icate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not

operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation; and

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials.”;

Also on page 25, in line 13, by striking “\$.028” and inserting “\$.03”; in line 18, after the period by inserting “The price to the consumer of water sold at retail by any such system shall not include the amount of such fee.”; in line 31, by striking “it” and inserting “% thereof to the state highway fund and the remainder”; by striking all in line 32; in line 33, by striking all after “Supp.”; by striking all in line 34; in line 35, by striking all before the comma and inserting “79-3603, as amended by section 5 of 2001 House Bill No. 2221, and 79-3606, as amended by section 1 of 2001 House Bill No. 2029”;

In the title, by striking all in line 13; in line 14, by striking all before the comma and inserting “79-3603, as amended by section 5 of 2001 House Bill No. 2221, and 79-3606, as amended by section 1 of 2001 House Bill No. 2029”;

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

JOHN EDMONDS

TOM SLOAN

BRUCE LARKIN

*Conferees on part of House*

DAVID R. CORBIN

LYNN JENKINS

JANIS K. LEE

*Conferees on part of Senate*

Senator Corbin moved the Senate adopt the Conference Committee Report on **S Sub for HB 332**.

On roll call, the vote was: Yeas 34, Nays 3, Present and Passing 2, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Huelskamp, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Feleciano, Haley, Hensley.

Present and Passing: Gooch, Harrington.

Absent or Not Voting: Jackson.

The Conference Committee report was adopted.

**REPORT ON ENGROSSED BILLS**

**SB 97** reported correctly re-engrossed May 3, 2001.

On motion of Senator Oleen, the Senate recessed until 7:45 p.m.

---

**EVENING SESSION**

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

**ORIGINAL MOTION**

Senator Oleen 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: **HB 2497**.

**ORIGINAL MOTION**

Senator Oleen moved Joint Rule 3(f) of the Senate and House of Representatives be suspended and dispense with distribution of copies of the conference committee report on **HB 2497**.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2497**, 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 4, in line 20, by striking "On and after July 1, 2001, the" and inserting "The"; in line 21, by striking "seven" and inserting "eight"; in line 27, by striking "seven" and inserting "eight"; in line 30, by striking "two" and inserting "three"; in line 32, by striking all after "(b)"; by striking all in line 33; in line 34, by striking all before "All"; in line 35, by striking all after "benefits"; in line 36, by striking all before "shall";

On page 5, in line 4, by striking "July 1,."; in line 5, by striking "2001" and inserting "the effective date of this act";

On page 6, in line 38, by striking "July 1, 2001" and inserting "the effective date of this act";

On page 8, in line 8, by striking all after "(10)"; by striking all in lines 9 through 13; in line 14, by striking "(11)"; in line 30, by striking "On and after July 1, 2001, the" and inserting "The";

On page 9, in line 7, by striking "July 1, 2001" and inserting "the effective date of this act";

On page 20, by striking all in lines 35 through 43;

By striking all of page 21;

On page 22, by striking all in lines 1 through 38 and inserting in lieu thereof the following: "Sec. 18. K.S.A. 2000 Supp. 12-1771a, as amended by section 4 of 2001 Substitute for House Bill No. 2005, is hereby amended to read as follows: 12-1771a. (a) The governing body of a city may establish an increment in ad valorem taxes using the procedure set forth in subsection (b) for projects that are initiated upon a finding that the area is a blighted area as defined under K.S.A. 2000 Supp. 12-1770a, and amendments thereto, when the following conditions exist:

(1) The proposed district has been identified by the Kansas department of health and environment or the United States environmental protection agency to be an environmentally contaminated area;

(2) the city has entered into a consent decree or settlement agreement or has taken action expressing an intent to enter into a consent decree or settlement agreement with the Kansas department of health and environment or the United States environmental protection agency that addresses the investigation and remediation of the environmental contamination;

(3) the consent decree or settlement agreement contains a provision that has the effect of releasing property owners who are not responsible for the contamination from the responsibility of paying the response costs of the investigation and remediation of the contamination; and

(4) the city intends to establish a redevelopment district pursuant to K.S.A. 12-1771, and amendments thereto, to wholly finance or partially finance the investigation and remediation of contamination within such district.

(b) An environmental increment established after a city has found that the conditions described in subsection (c) of K.S.A. 2000 Supp. 12-1770a, and amendments thereto, exists shall be set on a yearly basis. For purposes of this section, a yearly basis shall be a calendar year. Each year's increment shall be an amount sufficient to pay the direct costs of investigation and remediation of the contaminated condition anticipated to be incurred that year including principal and interest due on any special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part the remediation and investigation, costs relating to remediation investigation and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation and remediation of contamination. Each year's environmental increment shall not exceed 20% of the amount of taxes that are produced by all taxing subdivisions within any currently existing or subsequently created redevelopment district area in the year the redevelopment district is first established, notwithstanding that such subdivision was not required to receive notice of the establishment of the district.

(c) The budget that establishes the yearly environmental increment shall be certified by the city to the county clerk and county treasurer no later than August 25th, preceding the calendar year for which the budget is being set. Funds derived from an environmental increment established by this section and interest on all funds derived from an environmental increment established by this section may be used only for projects involving the investigation and remediation of contamination in the district.

(d) The real property taxes produced by the environmental increment established under subsection (b) from a redevelopment district established under the provisions of K.S.A. 12-1771, and amendments thereto, and this section shall be allocated and paid by the county treasurer to the treasurer of the city and deposited in a special separate fund of the city to pay the direct cost of investigation and remediation of contamination in the redevelopment district. Any funds collected by the city from parties determined to be responsible in any manner for the contaminated condition shall be either: (1) Deposited in the same separate special fund created hereunder, and with all interest earned thereon, may be used only for projects involving the investigation and remediation of contamination in the established redevelopment district; or (2) distributed to parties who have entered into a contract with the city to pay a portion of investigation and remediation of the contamination in the redevelopment district and the terms of such contract provide that such parties are entitled to reimbursement for a portion of funds they have expended for such investigation and remediation of contamination from the recovery of costs that are collected from other third party responsible parties.

(e) A redevelopment district created under the provisions of this section shall constitute a separate taxing district. If all costs for such investigation and remediation of contamination in the redevelopment district have been paid and moneys remain in the special fund, such moneys shall be remitted to each taxing subdivision which paid moneys into the special fund on the basis of the proportion which the total amount of moneys paid by such taxing subdivision into the special fund bears to the total amount of all moneys paid by all taxing subdivisions into the fund.

(f) Nothing in this section shall prevent any city from establishing a redevelopment district for other purposes pursuant to K.S.A. 12-1770 *et seq.*, and amendments thereto, which may include part or all of the real property included in the district established under this section.

(g) Redevelopment projects relating to environmental investigation and remediation under this section, and amendments thereto, shall be completed within 20 years from the date a city enters into a consent decree agreement with the Kansas department of health and environment or the United States environmental protection agency.

(h) Nothing in this section shall be construed to affect the obligations of the county to annually review the fair market value of property in accordance with procedures set by law or to affect the right of any taxpayer to protest and appeal the appraised or reappraised value of their property in accordance with procedures set forth by law.

(i) Commencing with the regular session of the legislature in 1993, each city that establishes a redevelopment district under this section shall make a status report on a biennial basis to the standing committee on commerce of the senate and the standing committee on ~~economic development~~ *new economy* of the house of representatives during the month of January. The status report shall contain information on the status of the investigation and remediation of contamination in the redevelopment district.

(j) For the purposes of this act, the governing body of a city, in contracts entered into with the Kansas department of health and environment or the United States environmental protection agency, may pledge increments receivable in future years to pay costs directly relating to the investigation and remediation of environmentally contaminated areas. The provisions in such contracts pertaining to pledging increments in future years shall not be subject to K.S.A. 10-1101 *et seq.* or 79-2925 *et seq.*, and amendments thereto.”;

On page 32, by striking all in lines 19 through 43;

On page 33, by striking all in lines 1 through 21 and inserting in lieu thereof the following:

“Sec. 29. On July 1, 2001, K.S.A. 2000 Supp. 74-8017, as amended by section 1 of 2001 House Bill No. 2591, is hereby amended to read as follows: 74-8017. (a) On and after January 1, 2003, it shall be the duty of Kansas, Inc. to prepare an annual report evaluating the cost effectiveness of the various income tax credits and sales tax exemptions enacted to encourage economic development within this state and submit the same to the standing committees on taxation and ~~economic development~~ *new economy* of the house and assessment and taxation and commerce of the senate at the beginning of each regular session of the legislature. The secretary of revenue shall develop a questionnaire on the utilization of state income tax credits and sales tax exemptions that shall be completed by all corporate taxpayers subject to state income tax that shall be submitted to the department of revenue concurrently with the filing of an annual corporate income tax return. The questionnaire shall require respondents to indicate utilization of the following credits and exemptions:

(1) income tax credits authorized under the provisions of the job expansion and investment credit act of 1976 and acts amendatory thereof and supplemental thereto;

(2) income tax credits for expenditures in research and development activities authorized by K.S.A. 79-32,182, and amendments thereto;

(3) income and financial institutions privilege tax credits for cash investment in stock of Kansas Venture Capital, Inc. authorized by K.S.A. 74-8205 and 74-8206, and amendments thereto;

(4) income tax credits for cash investment in certified Kansas venture capital companies authorized by K.S.A. 74-8304, and amendments thereto;

(5) income tax credits for cash investment in certified local seed capital pools authorized by K.S.A. 74-8401, and amendments thereto;

(6) income tax credits for investment in the training and education of qualified firms' employees authorized by K.S.A. 2000 Supp. 74-50,132, and amendments thereto;

(7) sales tax exemptions for property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business, or retail business meeting the requirements of K.S.A. 74-50,115, and amendments thereto, and machinery and equipment for installation at such business or retail business authorized by subsection (cc) of K.S.A. 79-3606, and amendments thereto; and

(8) sales tax exemptions for machinery and equipment used directly and primarily for the purposes of manufacturing, assembling, processing, finishing, storing, warehousing or distributing articles of tangible personal property in this state intended for resale by a manufacturing or processing plant or facility or a storage, warehousing or distribution facility. The secretary of revenue shall provide the completed questionnaires and copies of sales tax exemption certificates to Kansas, Inc. for the preparation of such report.

(b) Prior to the commencement of the 2002 legislative session, Kansas, Inc. and the Kansas department of revenue shall agree upon procedures for the purpose of disclosure of corporate and individual taxpayer information to fulfill the purposes of this section and protect

sensitive taxpayer information to the extent possible consistent with this section. Such procedures shall be submitted to an appropriate committee at the commencement of such session in the form of a proposed bill.”;

On page 40, after line 27, by inserting the following:

“Sec. 38. K.S.A. 46-2801 is hereby amended to read as follows: 46-2801. (a) There is hereby created the joint committee on corrections and juvenile justice oversight which shall be within the legislative branch of state government and which shall be composed of no more than ~~seven~~ *nine* members of the senate and ~~seven~~ *nine* members of the house of representatives.

(b) The ~~senate~~ members *from the senate* shall be appointed by the president and the minority leader. The two major political parties shall have proportional representation on such committee. In the event application of the preceding sentence results in a fraction, the party having a fraction exceeding .5 shall receive representation as though such fraction were a whole number.

(c) The ~~seven representative~~ *nine members from the house of representatives* shall be appointed as follows:

(1) Two members shall be members of the majority party who are members of the house committee on appropriations and shall be appointed by the speaker;

(2) two members shall be members of the minority party who are members of the house committee on appropriations and shall be appointed by the minority leader;

(3) two members shall be members of the majority party who are members of the house committee on judiciary and shall be appointed by the speaker; ~~and~~

(4) one member shall be a member of the minority party who is a member of the house committee on judiciary and shall be appointed by the minority leader;

(5) *one member shall be a member of the majority party who is a member of any committee not specified in paragraphs (1) through (4) and shall be appointed by the speaker; and*

(6) *one member shall be a member of the minority party who is a member of any committee not specified in paragraphs (1) through (4) and shall be appointed by the minority leader.*

(d) Any vacancy in the membership of the joint committee on corrections and juvenile justice oversight shall be filled by appointment in the manner prescribed by this section for the original appointment.

(e) All members of the joint committee on corrections and juvenile justice oversight shall serve for terms ending on the first day of the regular legislative session in odd-numbered years. The joint committee shall organize annually and elect a chairperson and vice-chairperson in accordance with this subsection. During calendar years 1997 and 1999, the chairperson shall be one of the representative members of the joint committee elected by the members of the joint committee and the vice-chairperson shall be one of the senate members elected by the members of the joint committee. During calendar year 1998, the chairperson shall be one of the senate members of the joint committee elected by the members of the joint committee and the vice-chairperson shall be one of the representative members of the joint committee elected by the members of the joint committee. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. If a vacancy occurs in the office of chairperson or vice-chairperson, a member of the joint committee, who is a member of the same house as the member who vacated the office, shall be elected by the members of the joint committee to fill such vacancy. Within 30 days after the effective date of this act, the joint committee shall organize and elect a chairperson and a vice-chairperson in accordance with the provisions of this act.

(f) A quorum of the joint committee on corrections and juvenile justice oversight shall be ~~eight~~ *10*. All actions of the joint committee shall be by motion adopted by a majority of those present when there is a quorum.

(g) The joint committee on corrections and juvenile justice oversight may meet at any time and at any place within the state on the call of the chairperson, vice-chairperson and ranking minority member of the house of representatives when the chairperson is a representative or of the senate when the chairperson is a senator.

(h) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the

joint committee on corrections and juvenile justice oversight to the extent that the same do not conflict with the specific provisions of this act applicable to the joint committee.

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

(j) The joint committee on corrections and juvenile justice oversight may introduce such legislation as it deems necessary in performing its functions.

(k) In addition to other powers and duties authorized or prescribed by law or by the legislative coordinating council, the joint committee on corrections and juvenile justice oversight shall:

(1) Monitor the inmate population and review and study the programs, activities and plans of the department of corrections regarding the duties of the department of corrections that are prescribed by statute, including the implementation of expansion projects, the operation of correctional, food service and other programs for inmates, community corrections, parole and the condition and operation of the correctional institutions and other facilities under the control and supervision of the department of corrections;

(2) monitor the establishment of the juvenile justice authority and review and study the programs, activities and plans of the juvenile justice authority regarding the duties of the juvenile justice authority that are prescribed by statute, including the responsibility for the care, custody, control and rehabilitation of juvenile offenders and the condition and operation of the state juvenile correctional facilities under the control and supervision of the juvenile justice authority;

(3) review and study the adult correctional programs and activities and facilities of counties, cities and other local governmental entities, including the programs and activities of private entities operating community correctional programs and facilities and the condition and operation of jails and other local governmental facilities for the incarceration of adult offenders;

(4) review and study the juvenile offender programs and activities and facilities of counties, cities, school districts and other local governmental entities, including programs for the reduction and prevention of juvenile crime and delinquency, the programs and activities of private entities operating community juvenile programs and facilities and the condition and operation of local governmental residential or custodial facilities for the care, treatment or training of juvenile offenders;

(5) study the progress and results of the transition of powers, duties and functions from the department of social and rehabilitation services, office of judicial administration and department of corrections to the juvenile justice authority; and

(6) make an annual report to the legislative coordinating council as provided in K.S.A. 46-1207, and amendments thereto, and such special reports to committees of the house of representatives and senate as are deemed appropriate by the joint committee.

(l) The provisions of this section shall expire on December 31, 2003.

Sec. 39. K.S.A. 46-3001 is hereby amended to read as follows: 46-3001. (a) There is hereby created the joint committee on children's issues which shall be within the legislative branch of state government and which shall be composed of 10 members. Five members shall be members of the house of representatives and five members shall be members of the senate. Three of the members who are representatives shall be appointed by the speaker of the house of representatives, three members who are senators shall be appointed by the president of the senate, two members who are representatives shall be appointed by the minority leader of the house of representatives and two members who are senators shall be appointed by the minority leader of the senate. ~~At least one member of the committee from the house of representatives shall be a member of the committee on insurance, one member shall be a member of the committee on health and human services and one member shall be a member of the committee on appropriations. At least one member of the committee from the senate shall be a member of the committee on financial institutions and insurance, one member shall be a member of the committee on public health and welfare and one member shall be a member of the committee on ways and means.~~

(b) All members of the joint committee on children's issues shall serve for terms of two years ending on the first day of the regular session of the legislature commencing in the

first odd-numbered year after the year of appointment, except that the first members shall be appointed on the effective date of this act and shall serve for terms ending on the first day of the regular session of the legislature commencing in 1999. If a vacancy occurs in the office of any member of the joint committee on children's issues, a successor shall be appointed in the same manner as the original appointment for the remainder of the term. The chairperson shall be appointed for a term of one year which ends on the first day of the next occurring regular session of the legislature. The speaker of the house of representatives shall appoint the first chairperson on the effective date of this act and shall appoint the chairperson for the term commencing on the first day of the regular session of the legislature commencing in 1999 for a one-year term to end on the first day of the regular session of the legislature commencing in the year 2000. The president of the senate shall appoint the next chairperson on the first day of the regular session of the legislature commencing in the year 2000 for a one-year term which ends on the first day of the next occurring regular session of the legislature. Thereafter the appointment of the chairperson shall continue to alternate between the speaker of the house of representatives and the president of the senate with each subsequent chairperson being appointed for a one-year term ending on the first day of the regular session of the legislature in the next occurring regular session of the legislature after the year of appointment. If a vacancy occurs in the office of the chairperson, a member of the joint committee who is a member of the same house of the legislature as the member who vacated the office shall be appointed by the speaker of the house or president of the senate, depending on the house membership of the vacating member, to fill such vacancy.

(c) A quorum of the joint committee on children's issues shall be six. All actions of the joint committee shall be taken by a majority of all of the members of the joint committee.

(d) The joint committee on children's issues shall have the authority to meet at any time and at any place within the state on the call of the chairperson.

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

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

(g) The joint committee on children's issues shall have the services of the legislative research department, the office of revisor of statutes and other central legislative staff service agencies.

(h) The joint committee on children's issues shall oversee the implementation and operation of the children's health insurance plans created under the provisions of this act, including the assessment of the performance based contracting's measurable outcomes as set forth in subsection (b)(4) of K.S.A. 38-2001 and amendments thereto and other children's issues as the committee deems necessary.

(i) *The joint committee on children's issues may introduce legislation as the committee deems appropriate in performing its functions.*;

And by renumbering sections accordingly;

Also on page 40, in line 33, after "2701," by inserting "46-2801,;" also in line 33, after "12- 1771a," by inserting "as amended by section 4 of 2001 Substitute for House Bill No. 2005,;" in line 36, by striking "74-8017,;" after line 38, by inserting the following:

"Sec. 41. On July 1, 2001, K.S.A. 2000 Supp. 74-8017, as amended by section 1 of 2001 House Bill No. 2591, is hereby repealed.;"

And by renumbering the remaining section accordingly;

Also on page 40, in line 40, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 22, after "46-2201" by inserting ", 46-2801 and 46-3001"; in line 23, after "12-1771a," by inserting "as amended by section 4 of 2001 Substitute for House Bill No. 2005,;" in line 25, after "74-8017," by inserting "as amended by section 1 of 2001 House Bill No. 2591,;" in line 28, by striking the comma after "2507" and inserting "and"; also in line 28, by striking "and 46-3001";

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

SUSAN WAGLE  
JIM BARNETT  
DAVID HALEY  
*Conferees on part of Senate*

WILLIAM G. MASON  
JERRY L. ADAY  
ANNIE KUETHER  
*Conferees on part of House*

Senator Wagle moved the Senate adopt the Conference Committee Report on **HB 2497**.

On roll call, the vote was: Yeas 38, Nays 0, Present and Passing 1, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Emler, Feleciano, Gilstrap, Gooch, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Downey.

Absent or Not Voting: Goodwin.

The Conference Committee report was adopted.

On motion of Senator Oleen, the Senate recessed until 10:00 p.m.

---

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

#### **ORIGINAL MOTION**

Senator Oleen 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 69**.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 69**, 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.

JOHN EDMONDS  
DAVID HUFF  
BRUCE LARKIN  
*Conferees on part of House*

DAVID R. CORBIN  
LYNN JENKINS  
JANIS K. LEE  
*Conferees on part of Senate*

On motion of Senator Corbin, the Senate adopted the conference committee report on **SB 69**, and requested a new conference committee be appointed.

The President appointed Senators Corbin, Jenkins and Lee as a second Conference Committee on the part of the Senate on **SB 69**.

#### **CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2336**, 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. 2336 as amended by Senate committee as follows:

On page 7, in line 39, by striking "2,666" and inserting "3,756 preschool-aged at-risk pupils to be counted in the 2001-02 school year and not more than 5,500"; in line 40, after "year", by inserting "thereafter";

On page 17, in line 18, by striking "state board of education" and inserting "legislative coordinating council"; in line 19, by striking "per"; in line 20, by striking "pupil"; in line 23, after "addition", by inserting "to any other subjects the legislative coordinating council deems appropriate,"; in line 26, after "locations", by inserting "including, but not limited to, per pupil cost";

On page 18, in line 4, by striking "and"; following line 4, by inserting a new paragraph as follows:

"(6) the cost of opening new facilities; and";

Also on page 18, in line 5, by striking "(6)" and inserting "(7)"; in line 8, by striking "The state board of education" and inserting "Within the limits of appropriations therefor, the legislative coordinating council"; following line 16, by inserting a new subsection as follows:

"(d) The legislative coordinating council shall designate a special committee to assist the council in discharging its responsibilities under this section, including prepare a request for proposals for the conduct of school finance system evaluation; advertise nationally for such proposals; evaluate the proposals; recommend to the council a consultant or consultants best qualified to conduct the study; consult with the council concerning terms and conditions of the consulting contract; act in an advisory capacity to assist the consultant in the conduct of the evaluation; on behalf of the council,

receive from the consultant regular reports of progress; and receive the final report of the consultant three weeks prior to formal submission of the report to the 2002 legislature on January 14, 2002. The special committee shall be composed of some or all of the members of the legislative educational planning committee as determined by the legislative coordinating council. The legislative coordinating council shall determine the number of members of the special committee who shall be members of the house of representatives, members of the senate, members of the majority party and members of the minority party.";

Also on page 18, in line 17, by striking "(d)" and inserting "(e)";

On page 33, by striking all of lines 30 through 43;

On page 34, by striking all of lines 1 through 21; following line 21, by inserting three new sections as follows:

"Sec. 15. On July 1, 2001, K.S.A. 72-5205 shall be and is hereby amended to read as follows: 72-5205. (a)(1) Each school board shall provide basic vision screening without charge to every pupil *enrolled in its each school under the governance of such school board* not less than once every two ~~(2)~~ years. All such tests shall be performed by a teacher or some other person designated by the school board. The results of the test and, if necessary, the desirability of examination by a qualified physician, *ophthalmologist* or optometrist shall be reported to the parents or guardians of such pupils. ~~Provided, That the~~ Information ~~so reported relating to the desirability of examination by a qualified physician, ophthalmologist or optometrist~~ shall not show preference in favor of any such professional person.

(2) *The requirements of this subsection shall not apply to a pupil who has had a basic vision screening examination within six months prior to the provision of basic vision screening in the school in which the pupil is enrolled.*

(b) *Each pupil needing assistance in achieving mastery of basic reading, writing and mathematics skills shall be encouraged to obtain an eye examination by an optometrist or ophthalmologist to determine if the pupil suffers from conditions which impair the ability to read. Expense for such examination, if not reimbursed through Medicaid, Healthwave, private insurance or other governmental or private program, shall be the responsibility of the pupil's parent or guardian.*

Sec. 16. K.S.A. 46-1208a is hereby amended to read as follows: 46-1208a. (a) The legislative educational planning committee is hereby established and shall be composed of ~~11~~ 13 members, ~~six~~ seven of whom shall be members of the house of representatives and ~~five~~ six of whom shall be senators. ~~At least five members of the committee shall be of the minority party, with at least two thereof from each house.~~ Members of the legislative educational planning committee shall be appointed by the legislative coordinating council. *The legislative coordinating council shall determine the number of members of the committee who shall be*

members of the majority party and the number of members of the committee who shall be members of the minority party. The committee shall be permanent with membership changing from time to time as the legislative coordinating council shall determine.

(b) The legislative educational planning committee shall plan for public and private postsecondary education in Kansas, including vocational and technical education; *explore, study and make recommendations concerning preschool and K-12 education in Kansas; review implementation of legislation relating to educational matters; and consider such other matters as the legislative coordinating council may assign.* The committee shall annually make a report and recommendations to the legislature and the governor and may cause the same to be published separately from other documents which are required by law to be submitted to the legislative coordinating council. The reports and recommendations of the committee shall include a developmental schedule for implementation of educational goals established by the committee. The committee shall from time to time update such schedule as new or additional information is developed or refined.

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

(d) Upon request of the legislative educational planning committee, the state board of regents and the state board of education shall provide consultants from the faculties and staffs of institutions and agencies under the respective control and jurisdiction thereof.

(e) The legislative educational planning committee *shall meet upon call of its chairperson* and may introduce such legislation as it deems necessary in performing its functions.

Sec. 17.

#### LEGISLATIVE COORDINATING COUNCIL

(a) There is appropriated for the above agency from the state general fund for the fiscal year or years specified, the following:

Professional evaluation of school district finance	
For the fiscal year ending June 30, 2002.....	\$225,000

*Provided*, That expenditures shall be made from the professional evaluation of school district finance account for a study to determine the per pupil cost of a suitable education for Kansas children pursuant to 2001 Senate Substitute for House Bill No. 2336.”;

By renumbering sections 17 through 19 as sections 18 through 20, respectively;

Also on page 34, in line 22, after “K.S.A.”, by inserting “46-1208a and K.S.A.”; in line 26, before “72-6420”, by inserting “72-5205, 72-5206 and”; also in line 26, by striking “and 72-”; in line 27, by striking “8603”;

In the title, in line 12, by striking all after the semicolon; in line 13, by striking all before the semicolon and inserting “making and concerning appropriations for the fiscal year ending June 30, 2002, for the legislative coordinating council”; in line 14, after “K.S.A.”, by inserting “46-1208a.”; also in line 14, before “72-6420”, by inserting “72-5205 and”; also in line 14, by striking “and 72- 8603”; in line 18, after “sections”, by inserting “; also repealing K.S.A. 72-5206”;

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

DWAYNE UMBARGER  
JOHN VRATIL  
*Conferees on part of Senate*

RALPH M. TANNER  
KATHE LLOYD  
*Conferees on part of House*

Senator Umbarger moved the Senate adopt the Conference Committee Report on **S Sub for HB 2336**.

On roll call, the vote was: Yeas 30, Nays 9, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Clark, Corbin, Donovan, Emler, Harrington, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Downey, Feleciano, Gilstrap, Gooch, Haley, Hensley, Lee, Steineger.  
Absent or Not Voting: Goodwin.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on **S Sub for HB 2336**. No one should, however, be fooled by this school finance bill. It does not adequately fund public education. Our failure to invest appropriately in public education represents my greatest disappointment of this session. I had hoped that the legislature would have demonstrated the courage to make the choices necessary to meet the pressing needs of Kansas public schools. Despite the courageous leadership of the Governor and the Senate Education committee, I believe this legislature has failed the school children of Kansas.

I support many provisions of this bill. The expansion of the four-year-old at-risk preschool program will reap tremendous benefits. The two-year renewal of the state wide mill levy is essential to support public education. The study funded by this bill to determine the cost of a suitable education will be a valuable tool in the effort to reform the current flawed school finance formula. Finally, the slight expansion of the local option budget resulting from the funding of special education costs through the finance formula will assist my community's schools.

This bill represents what's politically possible for now. It is not enough. I remain resolved to continue the fight to address the legitimate needs of Kansas public education. Nothing could be more important to the future of our state.—DAVID ADKINS

MR. PRESIDENT: I vote aye on **S Sub for HB 2336**.

Defining a legislator who supports public education has become a divisive issue this session. For some, the definition includes only those willing to pass a \$100 million tax increase. This box is too small. Many legislators support increases to education that also reflect the many needs of other sectors of our state; all of these needs must be balanced.

I include in my definition of a legislator, supporting public education, ones who diligently listen and respond to educators from their home area. These legislators also give of their time to set up a new youth congress, host students in the Capital, speak to all ages of students, serve on site councils, etc.

Before you draw me out of your small box, walk in my shoes in my hometown.—KARIN BROWNLEE

MR. PRESIDENT: I vote yes on **S Sub for HB 2336**.

Education funding in Kansas has been held harmless for a third straight year with an increase to the already \$2.26 billion school funding budget of \$68 million.

For many legislators, holding the school budget harmless, when the state budget is as Abe Lincoln once wrote "as thin as the homeopathic soup that was made by boiling the shadow of a pigeon that had starved to death," the \$68 million increase is appreciated.

Consideration should be given to comments from a senator of whom served for over a decade on her local Board of Education for the largest school district in the State.

To look at how other states pay for education, and see whether there are other options.—NANCEY HARRINGTON

MR. PRESIDENT: This is the most anti-education session I have ever been a part of. The 2001 Legislature has turned its back on Kansas school children and by its inaction is creating a crisis in public education.

Rather than responding to our teacher shortage crisis, this Legislature by its inaction will force teacher layoffs. Rather than helping local school boards to pay the rising costs of energy and transportation, this Legislature by its inaction will force them to cut their budgets to pay these costs. Rather than helping school boards to avoid diverting general fund dollars to finance mandated special education programs, this Legislature will force them to do exactly that.

In his State of the State address on January 8th, Governor Graves challenged the Legislature to do more than a \$50 base increase. Instead of meeting this challenge, a majority in this legislature took the cowardice way out. As a result, 131 school districts will actually lose funding and local property taxpayers will be hit by millions and millions of dollars in tax increases.

This legislature has failed in its important responsibility and that is to adequately fund public education.—ANTHONY HENSLEY

Senators Barone, Feleciano, Gilstrap and Lee request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **S Sub for HB 2336**.

MR. PRESIDENT: I vote "yes" on **S Sub for HB 2336**. **Senate Sub for HB 2336** is not a great bill for public education. But, considering the circumstances surrounding this year's financial shortfalls, this bill represents a significant victory for Kansas schools and Kansas' youngest citizens. In a year when revenues fell \$200 million short of projection, we still were able to provide \$68 million in new dollars for K-12 education.—DAVE KERR

MR. PRESIDENT: Governor Graves presented this legislature with a plan to help address the teacher shortage, help students who are struggling reach higher standards, reward teachers and schools for outstanding performance and improvement, and reduce the need to raise local property taxes. The Senate Education Committee tried to bring a plan that met those goals to the Senate. I believe that was the right thing to do. I believe the people of Kansas support those goals.

I vote yes on **S Sub for HB 2336** because the time has come to end the 2001 session. But those goals have not been met. We must continue our efforts to improve education funding and the quality of education for all Kansas students. The people of Kansas expect no less.—RUTH TEICHMAN

Senators Oleen and Umbarger request the record to show they concur with the "Explanation of Vote" offered by Senator Teichman on **S Sub for HB 2336**.

MR. PRESIDENT: I support **S Sub for HB 2336** because I believe it is a work in progress. Like any work in progress, it contains some good aspects and some not so good aspects. It has some "meat and potato" provisions, some creative provisions, and some provisions with promise for the future. I am truly proud of those people who worked so very hard on this bill. Like any work in progress, we have much more work to complete our task. If we truly desire a quality education for our children, we must be willing to provide the necessary resources. Because this bill is a work in progress, I can give it my support; but we have many miles to go before completing our journey.—JOHN VRATIL

#### CHANGE OF REFERENCE

The President withdrew **Sub HB 2489** and **S Sub for HB 2161** from the calendar under the heading of General Orders and re-referred the bills to the Committee on Elections and Local Government.

#### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was introduced and read:

SENATE CONCURRENT RESOLUTION No. 1612—

By Senators Kerr, Oleen and Hensley

A CONCURRENT RESOLUTION relating to the 2001 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 7, 2001, until the hour of 10:00 a.m. on May 31, 2001, at which time the legislature shall reconvene and shall continue in session until sine die adjournment at the close of business on May 31, 2001; 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 such period of adjourn-

ment, 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 Oleen an emergency was declared by a  $\frac{2}{3}$  constitutional majority, and **SCR 1612** was advanced to Final Action, subject to amendment, debate and roll call.

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

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Clark, Corbin, Donovan, Emler, Feleciano, Gilstrap, Haley, Harrington, Hensley, Huelskamp, Jackson, Jenkins, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Praeger, Pugh, Salmans, Schmidt, Schoendorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Absent or Not Voting: Downey, Gooch, Goodwin.

The resolution was adopted.

On motion of Senator Oleen, and in compliance with **SCR 1612**, the Senate adjourned until Sine Die, 10:00 a.m., Thursday, May 31, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

