

Journal of the House

FIFTY-SEVENTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, April 28, 2004, 10:00 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.

The roll was called with 124 members present.

Rep. Landwehr was excused on excused absence by the Speaker.

Present later: Rep. Landwehr.

Rep. D. Williams was excused later in the day on excused absence by the Speaker.

Prayer by guest chaplain, Omar Hazim, Imam of the Islamic Center of Topeka, and guest of Rep. Kirk:

With Gods Name The Merciful Benefactor, The Merciful Redeemer, Merciful Benefactor, Creator of the heavens, earth and everything contained therein. We come before you today in humble prayer and ask you to have mercy on, and give guidance to this governing body of honorable minds; the Kansas House of Representatives. Please grant to them the wisdom and the courage to make the best decisions for the people and communities that they serve. Reward them for the noble work that they do.

Our Lord help every individual of this house recognize and respect the inherent worth that you, our Creator has given every human soul. Let the larger societies and governments of the world give due process and justice to its individual members and help the individual members of societies accept their responsibilities. Our Lord let us; your servants have increased dialogue, respect, cooperation and brotherhood among each other.

Merciful Redeemer, with you are the keys of the unseen, the treasures that none knoweth but you. You knoweth whatever there is on the earth and in the sea. Not a leaf doth fall but with your knowledge. There is not a grain in the darkness of the earth, nor anything fresh or dry (green or withered) but is known clearly by you. (Quran)

Creator, of all mankind, as we worship you in our diverse ways and traditions, help us not to forget, or to neglect our duties and responsibilities in this life. Help us to serve humanity and foster goodwill and peace on earth. Amen.

The Pledge of Allegiance was led by Rep. Loyd.

INTRODUCTION OF GUESTS

Rep. Jack introduced Kendra Frazier, an 8th grader at Altamont, who won the 2004 All-Kansas Spelling Bee and will represent Kansas at the National Spelling Bee in Washington DC in June. Rep. Jack presented Kendra with a certificate.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committee as indicated:

Appropriations: **SB 562**.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

HB 2947, An act concerning license plates for motor vehicles; reenacting 2004 Substitute for House Bill No. 2143; amending K.S.A. 8-1,141, 8-1,142 and 8-1,146 and repealing the existing sections; also repealing K.S.A. 8-1,141, as amended by section 1 of 2004 Substitute for House Bill No. 2143, 8-1,142, as amended by section 2 of 2004 Substitute for House Bill No. 2143, 8-1,146, as amended by section 3 of 2004 Substitute for House Bill No. 2143, 8-1,149, section 4 of 2004 Substitute for House Bill No. 2143, section 5 of 2004 Substitute for House Bill No. 2143, and section 6 of 2004 Substitute for House Bill No. 2143, by Committee on Appropriations.

MESSAGES FROM THE GOVERNOR

HB 2737 approved on April 5, 2004.

Also, **Sub. HB 2435; HB 2487, HB 2528, HB 2530, HB 2603, HB 2615; Sub. HB 2635; HB 2670, HB 2685, HB 2693, HB 2717, HB 2718, HB 2725, HB 2746, HB 2781** approved on April 8, 2004.

MESSAGE FROM THE GOVERNOR

April 8, 2004

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Order No. 2004-03 for your information.

EXECUTIVE ORDER NO. 2004-03

Establishing a State of Kansas tax clearance process for individuals hired by a state agency under the jurisdiction of the Governor.

KATHLEEN SEBELIUS
Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

MESSAGES FROM THE GOVERNOR

Sub. HB 2558; HB 2582, HB 2633, HB 2657, HB 2673, HB 2706, HB 2835, HB 2312, HB 2554, HB 2869 approved on April 12, 2004.

Also, **HB 2154; S. Sub. for HB 2352; HB 2531, HB 2555, HB 2573, HB 2600, HB 2604, HB 2622; Sub. HB 2698; S. Sub. for Sub. HB 2713; HB 2731, HB 2760, HB 2793, HB 2833; S. Sub. for HB 2912** approved on April 14, 2004.

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governors objection to **HB 2798**, An act enacting the personal and family protection act; providing for licensure to carry certain concealed weapons; prohibiting certain acts and prescribing penalties for violations; amending K.S.A. 12-4516 and K.S.A. 2003 Supp. 21-4201 and 21-4619 and repealing the existing sections, was received and read.

Message to the House of Representatives of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, the Governor vetoed **HB 2798**.

I support Kansans Second Amendment rights. I support the Kansas Constitution, which also protects the peoples right to bear arms. I believe in every Americans right to own and keep firearms. As a woman who has lived and raised children in an urban area, I understand the need for personal safety and self-defense.

But as Governor, I must consider what will make Kansans safer overall. I do not believe the widespread legalization of concealed firearms that **HB 2798** would allow would make Kansans safer. I do not believe allowing people to carry concealed handguns into sporting events, shopping malls, grocery stores, or the workplace would be good public policy. And, to me, the likelihood of exposing children to loaded handguns in their parents purses, pockets, and automobiles is simply unacceptable.

Perhaps most troubling, though, is the untenable position in which **HB 2798** would place law enforcement. If **HB 2798** became law, police officers, highway patrolmen, sheriffs, and deputies in Kansas would be forced to assume that any person they stop could have a firearm. This would make their already dangerous job even more difficult. This has been my position for many years, and I remain committed to it. I would sign a bill that allowed retired law enforcement officers to carry concealed weapons. Anything further, however, would undermine the safety and freedom of all Kansans.

For these reasons, I veto **HB 2798**.

KATHLEEN SEBELIUS
Governor

Dated: April 16, 2004

MESSAGES FROM THE GOVERNOR

S. Sub. for Sub. HB 2647; HB 2675 approved on April 19, 2004. Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, the Governor returned **HB 2675** with her signature approving the bill, except for the items enumerated below.

VETO MESSAGE FROM THE GOVERNOR

The following message with the Governor's objection to **HB 2675**, An act making and concerning appropriations for the fiscal years ending June 30, 2004, June 30, 2005, and June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2003 Supp. 2-223, 55-193, 75-2319, 75-6702, 76-775, 79-2959, 79-2974, 79-3425c, 79-3425i, 79-34,147 and 82a-953a and repealing the existing sections, was received and read.

Message to the House of Representatives of the State of Kansas:

Department of Education KPERs—School

Section 45(c) has been line-item vetoed in its entirety.

This language lapses \$6,005,014 for the state's obligation for KPERs School retirement benefits in FY 2004. Although the state has projected savings in the current year for this line-item, it is not as much as originally thought. Because of the timing of KPERs School payments and the enactment date of this bill, I veto that language lapsing the monies and will recommend a budget amendment to capture the correct amount of savings. This veto is purely technical in nature.

Department of Administration

Health Risk Appraisal

Section 88(q) has been line-item vetoed in its entirety.

When the contract with the vendor handling the Health Risk Appraisal was put into place, there were no provisions regarding paper format questionnaires or findings reports. All of these functions were to be provided for over the Internet. Requiring paper forms to be provided to health plan participants, if so requested, would increase the cost of this program. This cost would then have to be covered through the approved budget of the Department of Administration in FY 2005. I find it necessary to veto the paper form requirement in this section.

KANS-A-N Directory

Section 88(r) has been line-item vetoed in its entirety.

Printing of the KANS-A-N Directory was eliminated a year ago as part of my budget recommendations. However, the Legislature added a proviso in the appropriations bill that would have allowed continued printing of the directory and authorized a fee to be charged to cover the cost. I line-item vetoed the proviso at that time because an on-line directory saves money and can be updated more quickly and efficiently than a printed copy can. In fact, a printed version is out of date shortly after its distribution. Not taking advantage of current technology wastes available resources and ignores budgetary constraints, because agencies will still have to pay for hard copies through the new fee. Because the Legislature

has added the proviso to the appropriations bill again this year and the reasons for continuing the on-line directory are just as valid as they were a year ago, I again find it necessary to veto this proviso.

Department of Social & Rehabilitation Services

Vocational Rehabilitation Federal Grant

Section 101(n) has been line-item vetoed in its entirety.

A proviso was added that requires SRS to make full utilization of the Vocational Rehabilitation Federal Grant. However, the Legislature did not identify funding to cover the cost of the proviso. As a result, this proviso would force the agency to use approximately \$500,000 of approved expenditure authority in FY 2005, most likely from the State General Fund, to match these federal dollars. The Vocational Rehabilitation Program is certainly worthwhile, but without new funding, the state match would need to be drawn from other important programs in SRS. If the Legislature believes that the state match of these federal grant monies is a priority in the budget, it should have identified and approved funds specifically for this purpose. I therefore veto this proviso.

KATHLEEN SEBELIUS
Governor

Dated: April 19, 2003

MESSAGES FROM THE GOVERNOR

Sub. HB 2143; HB 2293; S. Sub. for HB 2391; Sub. HB 2516; S. Sub. for HB 2593; HB 2652, HB 2748, HB 2813, HB 2871, HB 2902 approved on April 21, 2004.

COMMUNICATIONS FROM STATE OFFICERS

From Roger Werholtz, Kansas Criminal Justice Coordinating Council Chair, and Larry Welch, KCJCC Vice-Chair, Kansas Strategy for 2004-2007 for the Edward Byrne Memorial State Law Enforcement Assistance Formula Grant Program.

From Lt. Governor/Secretary John Moore, as required to K.S.A. 74-50,118(b), Annual Report on the Kansas Enterprise Zone Program.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

MESSAGES FROM THE SENATE

The Senate adopts conference committee report on **H. Sub. for SB 9**.

The Senate adopts conference committee report on **H. Sub. for SB 45**.

The Senate adopts conference committee report on **H. Sub. for SB 166**.

The Senate adopts conference committee report on **SB 334**.

The Senate adopts conference committee report on **Sub. SB 335**.

The Senate adopts conference committee report on **SB 363**.

The Senate adopts conference committee report on **SB 440**.

The Senate adopts conference committee report on **HB 2037**.

The Senate adopts conference committee report on **HB 2067**.

The Senate adopts conference committee report on **HB 2101**.

The Senate adopts conference committee report on **HB 2557**.

The Senate adopts conference committee report on **HB 2563**.

The Senate adopts conference committee report on **HB 2617**.

The Senate adopts conference committee report on **HB 2745**.

The Senate adopts the conference committee report to agree to disagree on **HB 2658** and has appointed Senators Wagle, Barnett and Haley as second conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2705** and has appointed Senators Morris, Adkins and Downey as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2749** and has appointed Senators Morris, Adkins and Downey as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **S. Sub. for HB 2886** and has appointed Senators Morris, Adkins and Downey as second conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **S. Sub. for HB 2899** and has appointed Senators Morris, Adkins and Downey as conferees on the part of the Senate.

The President announced the appointment of Senators Allen, Buhler and Betts as members of the conference committee on **HB 2624** to replace Senators Donovan, Salmans and Goodwin.

Also, announcing rejection of **S. Sub. for HB 2940**.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6033—

By Representatives Wilson, Mays and Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, D. Williams, J. Williams, Winn, Yoder and Yonally

A RESOLUTION in memory of Lawrence J. "Larry" Wilbert.

WHEREAS, Lawrence J. Wilbert, 87, of Pittsburg, died Thursday, April 22 following a lengthy illness; and

WHEREAS, Mr. Wilbert served in the House of Representatives representing the 3rd representative district from 1980 to 1990 and was instrumental in the improvement of state highway 69 from Fort Scott to Pittsburg. He served as vice chairperson of the committee on transportation and as a member of the committee on commercial and financial institution and the committee on elections; and

WHEREAS, Mr. Wilbert was born March 6, 1917, at Pittsburg, attended Pittsburg public schools and was a 1939 graduate of Kansas State Teachers College at Pittsburg. He taught school for a year at Chautauqua and then worked for Structural Steel of Kansas City before enlisting in the United States Army in 1943. He served in the Signal Corps in the European Theater of operations. After World War II he returned to his job in Kansas City, worked for the Hutchinson Foundry and Steel Company before returning to Pittsburg in 1965. He founded the Pittsburg Steel and Manufacturing Company and operated it until 1978;

WHEREAS, Mr. Wilbert served on the Pittsburg Planning and Zoning Commission, was a member of American Legion Post No. 64 of Pittsburg, the Veterans of Foreign Wars and the Heartland Antique Car Club. He was a lifetime member of Our Lady of Lourdes Catholic Church of Pittsburg; and

WHEREAS, Larry Wilbert was a genuinely nice person who was considered a friend by many, not only in the community of Pittsburg, but also across the state thanks to his many friendships fostered while serving in the legislature; and

WHEREAS, Larry Wilbert served as an inspiration for a new generation of political leaders, including many interns and legislative pages who followed in his example of public service; and

WHEREAS, Larry Wilbert always took the time to make every person he met feel special by listening to their concerns or taking them to lunch at the state cafeteria; and

WHEREAS, He married Virginia Albright on September 19, 1942. She survives at the family home; also surviving are a son, Kenneth L. Wilbert, and two daughters, Jeanette Edwards and Marjorie Dellasega: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we extend our deepest sympathy to the family of Lawrence J. "Larry" Wilbert and express our appreciation for the public service he gave to his community and state; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide four enrolled copies of this resolution to Mrs. Lawrence Wilbert, 311 W. Jefferson, Pittsburg, KS 66762.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Mays, **HR 6014**, A resolution in memory of Duane S. Pete McGill, was adopted.

A few remarks were addressed to the members of the House by Pam Shernuk, Mr. McGills daughter.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

On motion of Rep. Mays, **HR 6031**, A resolution congratulating and commending Martha L. (Pat) Brady, was adopted.

INTRODUCTION OF GUESTS

Rep. Shultz introduced seven students from around the state of Kansas who received a perfect score of 36 on the ACT test. The seven students were presented certificates by each ones representative: Sara C. Maatta, Manhattan High School, Rep. Reitz; Robert G. Hall, Olathe East High School, Rep. Carter; Cassandra A. Mitchell, Salina South High School, Rep. Beggs; Brock T. Phillips, Wichita East High School, Rep. Pottorff; Thornton W. Thompson, Shawnee Mission West High School, Rep. Huff; John P. Larson, Canton-Galva High School, Rep. Shultz; and Kyle Heer, Olathe East High School, Rep. Schwab.

Three other students received a perfect score but were unable to be present. They are: Turner R. Batty, Blue Valley North High School, Rep. Patterson; Amy Chang, Blue Valley North High School, Rep. Barbieri-Lightner; and Feifei B. Jiang, Pembroke Hill School, Rep. Merrick.

INTRODUCTION OF ORIGINAL MOTIONS

In accordance with subsection (b) of House Rule 1503, Rep. Flora moved that the order on General Orders of **H. Sub. for SB 222** be changed to the first measure to be considered on General Orders, and that Joint Rule 4 (k) of the Joint Rules of the House and Senate be suspended for the purpose of considering the bill.

(The Chief Clerk of the House of Representatives is requested to read this motion and cause it to be printed in the Calendar of April 29, 2004, under the order of business Consideration of Motions and House Resolutions Offered on a Previous Day as provided by House Rule 1503 (b).)

REPORTS OF STANDING COMMITTEES

The Committee on **Appropriations** recommends **SB 536**, as amended by Senate Committee, be amended by substituting a new bill to be designated as HOUSE Substitute for SENATE BILL No. 536, as follows:

HOUSE Substitute for SENATE BILL No. 536

By Committee on Appropriations

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2004, June 30, 2005, June 30, 2006, and June 30, 2007; authorizing certain transfers and fees, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the foregoing; repealing section 66 of 2004 House Bill No. 2675. ; and the substitute bill be passed.

(**H. Sub. for SB 536** was thereupon introduced and read by title.)

CHANGE OF CONFEREES

Speaker pro tem Ballou announced the appointment of Reps. Mason, D. Williams and Rehorn as members of the conference committee on **HCR 5005** to replace Reps. Myers, Powers and Wilson.

COMMITTEE ASSIGNMENT CHANGE

Rep. Wilson is appointed as ranking member of the Ethics and Election Committee. Rep. Sawyer will remain on the committee as a member.

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

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. M. Long, **HR 6032**, by Rep. M. Long, as follows, was introduced and adopted:

HOUSE RESOLUTION No. 6032—

A RESOLUTION congratulating and commending Tony Stewart.

WHEREAS, Tony Stewart has raced three times at Kansas Speedway; and

WHEREAS, Tony Stewart has won the Indy Racing League championship in 1997 and the NASCAR championship in 2002; and

WHEREAS, Tony Stewart has finished among NASCAR's Top 10 every year of his career; and

WHEREAS, Tony Stewart was named NASCAR's Rookie of the Year in 1999; and

WHEREAS, Tony Stewart has two poles at Indianapolis—the 1996 Indianapolis 500 and the 2002 Brickyard 400; and

WHEREAS, Tony Stewart has won the USAC's Triple Crown, one of only four drivers to do so, and the first to do it all in just one season; and

WHEREAS, Tony Stewart has won a total of nine driving championships since he began racing competitively in 1979 at the tender age of eight; and

WHEREAS, Tony Stewart's World of Outlaws team driver Danny Lasoski won the series' 2001 championship; and

WHEREAS, Tony Stewart's accomplishments aren't just on the track but they're also on a charitable level. Tony Stewart recently formed the Tony Stewart Foundation and donated \$1 million to Victory Junction Gang Camp; and

WHEREAS, Tony Stewart is a Midwestern boy who has an enormous fan following in Kansas; Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend Tony Stewart for his professional and charitable accomplishments; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to Tony Stewart, c/o Joe Gibbs Racing, 13415 Reese Blvd West, Huntersville, NC 28078 and Jeff Boerger, President, Kansas Speedway, 400 Speedway Boulevard, Kansas City, KS 66111.

Rep. Long introduced and welcomed Tony Stewart, commending him on his professional and charitable accomplishments. He addressed a few remarks to the members of the House and presented Rep. Mays with an autographed souvenir race car as a donation for the Big Brother/Big Sister fund raiser.

On motion of Rep. Aurand, the House recessed until 2:30 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker Mays in the chair.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

HB 2948, An act concerning the department of human resources; relating to the change of name of such agency; relating to other changes required by 2004 ERO 31; amending K.S.A. 38-622, 39-7,108, 39-1702, 44-322a, 44-327, 44-402, 44-403, 44-404, 44-405, 44-406, 44-409, 44-412, 44-552, 44-555c, 44-596, 44-5,104, 44-5,122, 44-5,124, 44-601, 44-601b, 44-607, 44-608, 44-609, 44-610, 44-611, 44-612, 44-614, 44-615, 44-616, 44-618, 44-619, 44-620, 44-621, 44-622, 44-623, 44-624, 44-626, 44-631, 44-634, 44-635, 44-636, 44-638, 44-643, 44-645, 44-646, 44-647, 44-661, 44-662, 44-704a, 44-710b, 44-711, 44-713, 44-713a, 44-715, 44-716, 44-716a, 44-718, 44-720, 44-721, 44-727, 44-759, 44-809, 44-816, 44-820, 44-914, 44-915, 44-1202, 44-1402, 44-1405, 44-1409, 65-1824, 65-4971, 65-5703, 66-132, 72-4427, 72-5413, 72-5432, 73-1209, 73-1219, 74-711, 74-32,160, 74-5068, 74-6701, 74-6702, 74-6703, 74-6706, 74-6707, 74-6708, 74-6709, 74-72,103, 75-443, 75-4323, 75-4332, 75-5133a, 75-5702, 75-5705, 75-7508, 75-5712, 75-5713, 75-5722, 75-5723, 75-5724, 75-5727, 75-5730, 75-5731, 75-5734, 75-5735, 75-5740, 75-5741, 76-186, 76-3110, 77-618, 79-1010, 79-1012 and 79-1014 and K.S.A. 2003 Supp. 44-313, 44-411, 44-508, 44-511, 44-703, as amended by section 6 of 2004 Senate Bill No. 440, 44-704, 44-704b, as amended by section 1 of 2004 Senate Bill No. 440, 44-706, as amended by section 2 of 2004 Senate Bill No. 440, 44-709, as amended by section 3 of 2004 Senate Bill No. 440, 44-710, as amended by section 4 of 2004 Senate Bill No. 440, 44-710a, as amended by section 5 of 2004 Senate Bill No. 440, 44-714, 44-717, 44-757, 44-762, 44-817, 44-926, 49-201, 74-32,151, 74-4911f, 74-4911h, 74-50,131, 74-50,136, 74-8942, 75-2935, 75-3728b, 75-4234, 75-5701, 75-5733, 75-5742, 75-5743, 76-11a06 and repealing the existing sections; also repealing K.S.A. 75-5714 and 75-5716, by Committee on Appropriations.

MESSAGE FROM THE SENATE

The Senate not adopts the conference committee report on **H. Sub. for SB 376**, requests a new conference committee be appointed and has appointed Senators Allen, Buhler and Betts as second conferees on the part of the Senate.

The President announced the appointment of Senators Vratil, Schmidt and Goodwin as members of the conference committee on **HCR 5005** to replace Senators Allen, O'Connor and Betts.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **H. Sub. for SB 376**.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **H. Sub. for SB 376**.

Speaker Mays thereupon appointed Reps. Myers, Powers and Wilson as second conferees on the part of the House.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 29, SB 304, HB 2037, HB 2067, HB 2201, HB 2545, HB 2557, HB 2563, HB 2606, HB 2617, HB 2653, HB 2658, HB 2745, HB 2805**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 29**, submits the following report:

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

On page 108, following line 17, by inserting the following:

“Sec. 93. K.S.A. 2003 Supp. 17-2036 is hereby amended to read as follows: 17-2036. (a) Every business trust shall make an annual report in writing to the secretary of state, showing its financial condition at the close of business on the last day of its tax period under the Kansas income tax act next preceding the date of filing, but if a business trust’s tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period. The reports shall be made on forms provided by the secretary of state and shall be filed at the time prescribed by law for filing the business trust’s annual Kansas income tax return, except that if any such business trust shall receive an extension of time for filing its annual income tax return from the internal revenue service or pursuant to subsection (c) of K.S.A. 79-3221, and amendments thereto, the time for filing the report hereunder shall be extended, correspondingly, upon filing with the secretary of state a copy of the extension granted by the internal revenue service or the director of taxation. The report shall contain the following:

~~(a)~~ (1) Executed copies of all amendments to the instrument by which the business trust was created, or to prior amendments thereto, which have been adopted and have not theretofore been filed under K.S.A. 17-2033, and amendments thereto, and accompanied by the fee prescribed therein for each such amendment; *and*

~~(b)~~ (2) a verified list of the names and addresses of its trustees as of the end of its tax period; *and*

~~(c) a balance sheet as of the end of its tax period, certified by the trustee, fairly and truly reflecting its assets and liabilities and specifically setting out its corpus, and, in the case of a foreign business trust, fairly and truly reflecting an allocation of its moneys and other assets as between those located, used, or to be used in this state and those located, used or to be used elsewhere.~~

(b) (1) At the time of filing its annual report, the business trust shall pay to the secretary of state an annual franchise tax in an amount equal to \$2 for each \$1,000 of its corpus ~~as shown by its balance sheet~~, or, in the case of a foreign business trust, in an amount equal to \$2 for each \$1,000 of that portion of its corpus which is located in or which it uses or intends to use in this state ~~as shown by its balance sheet~~, except that in any case no such tax shall be less than \$40 nor more than \$5,000.

(2) The failure of any domestic or foreign business trust to file its annual report and pay its annual franchise tax within 90 days from the date on which they are due, as aforesaid, shall work a forfeiture of its authority to transact business in this state and all of the remedies, procedures, and penalties specified in K.S.A. 17-7509 and 17-7510, and amendments thereto, with respect to a corporation which fails to file its annual report or pay its annual franchise tax within 90 days after they are due, shall be applicable to such business trust.

(c) *When any business trust that is required to file an annual report with the secretary of state, applies for an extension of time for filing its annual income tax return with the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, and subsection (d). All copies of such applications shall be preserved for one year and until the secretary of state orders that the copies are to be destroyed.*

(d) *A copy of such application shall be open to inspection by or disclosure to any person designated by resolution of the trustees of the business trust.*

Sec. 94. K.S.A. 2003 Supp. 17-7678 is hereby amended to read as follows: 17-7678. (a) ~~The original signed copy, together with a duplicate copy which may be either a signed or conformed copy,~~ of articles of organization or any certificate to be filed pursuant to this act, shall be filed with the secretary of state. A person who executes a certificate, statement or articles as an agent or fiduciary shall not be required to exhibit evidence of the person’s authority as a prerequisite to filing. Any signature on any articles or certificate authorized to be filed with the secretary of state under any provision of this act may be a facsimile, a conformed signature or an electronically transmitted signature. Unless the secretary of state

finds that any filing does not conform to law, upon receipt of all filing fees required by law, the secretary of state shall:

(1) Certify that such document has been filed in the secretary of state's office by endorsing upon the original filing the word "filed" and the date and hour of the filing; in the absence of actual fraud, this endorsement is conclusive of the date and time of its filing;

(2) ~~file and index~~ record the endorsed document in an electronic medium; and

(3) return the ~~duplicate copy, similarly~~ original document, certified as a true copy of the recorded document, to the person who filed it or such person's representative.

(b) The articles of organization shall be amended as provided in a certificate of amendment ~~(or judicial decree of amendment)~~ upon the filing of the certificate of amendment ~~(or judicial decree of amendment)~~ with the secretary of state or upon the future effective date specified in the certificate of amendment. An inaccuracy in the articles of organization may be corrected by filing a certificate of correction with the secretary of state as provided in K.S.A. 2003 Supp. 17-7683, and amendments thereto. The articles of organization are canceled upon the issuance of a certificate of cancellation ~~for certificate of merger or consolidation where the limited liability company is not the surviving or resulting entity~~ by the secretary of state.

(c) The fee required by this act shall be paid at the time of the filing of any articles of organization or any certificate to be filed pursuant to this act.

(d) The fee required by this act shall be paid for a certified copy of any paper on file pursuant to this act and the fee fixed pursuant to this act shall be paid for each page copied.

(e) The secretary of state may prescribe a telefacsimile communication fee in addition to any filing fees to cover the cost of such services. This fee must be paid prior to acceptance of a telefacsimile communication and shall be deposited into the information and copy service fee fund.

(f) Upon filing the articles of organization of a limited liability company organized to exercise powers of a professional association or professional corporation, the limited liability company shall file with the secretary of state a certificate by the licensing body, as defined in K.S.A. 74-146, and amendments thereto, of the profession involved that each of the members is duly licensed to practice that profession, and that the proposed company name has been approved.

Sec. 95. K.S.A. 2003 Supp. 17-76,121 is hereby amended to read as follows: 17-76,121. Before doing business in the state of Kansas, a foreign limited liability company shall register with the secretary of state. In order to register, a foreign limited liability company shall submit to the secretary of state, together with payment of the fee required by this act, an original copy executed by a member or manager, together with a duplicate copy, of an application for registration as a foreign limited liability company, setting forth:

(a) The name of the foreign limited liability company;

(b) the state or other jurisdiction or country where organized, the date of its organization and a statement issued by an appropriate authority in that jurisdiction *or by a third-party agent authorized by the secretary of state* that the foreign limited liability company exists in good standing under the laws of the jurisdiction of its organization;

(c) the nature of the business or purposes to be conducted or promoted in the state of Kansas;

(d) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by this act;

(e) an irrevocable written consent of the foreign limited liability company that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the secretary of state as provided for in K.S.A. 60-304, and amendments thereto, and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the general partners of the foreign limited liability company;

(f) the name and business, residence or mailing address of each of the members or, if managed by managers, the name and business, residence or mailing address of each of the managers; and

(g) the date on which the foreign limited liability company first did, or intends to do, business in the state of Kansas.

A person shall not be deemed to be doing business in the state of Kansas solely by reason of being a member or manager of a domestic limited liability company or a foreign limited liability company.

Sec. 96. K.S.A. 2003 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139.

(a) Every limited liability company organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

(1) The name of the limited liability company; and

(2) a list of the members owning at least 5% of the capital of the company, with the post office address of each.

(b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. If the limited liability company applies for an extension of time for filing its annual income tax return under the internal revenue code, the limited liability company also shall apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code. The application shall include a copy of the application to income tax authorities. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited liability company.

(c) The annual report required by this section shall be signed by a member of the limited liability company and forwarded to the secretary of state. At the time of filing the report, the limited liability company shall pay to the secretary of state an annual franchise tax in an amount equal to \$2 for each \$1,000 of the net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship, \$2 for each \$1,000 of net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited liability company to the secretary as provided by this subsection shall not be disclosed by the secretary.

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, shall be applicable to the articles of organization of any domestic limited liability company or to the authority of any foreign limited liability company which fails to file its annual report or pay the franchise tax within 90 days of the time prescribed in this section for filing and paying the same. Whenever the articles of organization of a domestic limited liability company or the authority of any foreign limited liability company are forfeited for failure to file

an annual report or to pay the required franchise tax, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees and taxes, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

(e) When reinstatement is effective, it relates back to and takes effect as of the effective date of the forfeiture and the company may resume its business as if the forfeiture had never occurred.

(f) No limited liability company shall be required to file its first annual report under this act, or pay any annual franchise tax required to accompany such report, unless such limited liability company has filed its articles of organization or application for authority at least six months prior to the last day of its tax period. If any limited liability company files with the secretary of state a notice of change in its tax period and the next annual report filed by such limited liability company subsequent to such notice is based on a tax period of less than 12 months, the annual tax liability shall be determined by multiplying the annual franchise tax liability for such year by a fraction, the numerator of which is the number of months or any portion thereof covered by the annual report and the denominator of which is 12, except that the tax shall not be less than \$40.

(g) *When any limited liability company that is required to file an annual report with the secretary of state applies for an extension of time for filing its annual income tax return with the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns filed shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, or subsection (h). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.*

(h) *A copy of such application shall be open to inspection by or disclosure to any person who was a member of such limited liability company during any part of the period covered by the extension.*

Sec. 97. K.S.A. 56-1a156 is hereby amended to read as follows: 56-1a156. (a) The original signed copy, together with a duplicate copy which may be either a signed or conformed copy, of the certificate of limited partnership, any certificates of amendment or cancellation and any judicial decree of amendment or cancellation shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary shall not be required to exhibit evidence of the person's authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law, the secretary of state shall:

(1) Certify that the certificate of limited partnership, certificate of amendment, certificate of cancellation or judicial decree of amendment or cancellation has been filed in the secretary of state's office by endorsing upon the original certificate the word "Filed" and the date and hour of the filing; in the absence of actual fraud this endorsement is conclusive of the date and time of its filing;

(2) ~~file and index~~ record the endorsed certificate in an electronic medium; and

(3) return the ~~duplicate copy, similarly~~ original document certified as a true copy of the recorded document, to the person who filed it or that person's representative.

(b) The certificate of limited partnership shall be amended as provided in a certificate of amendment or decree of amendment upon the filing of the certificate of amendment or judicial decree of amendment in the office of the secretary of state or upon the future effective date specified in the certificate of amendment or judicial decree of amendment. The certificate of limited partnership is canceled upon the filing of a certificate of cancellation or a judicial decree of amendment in the office of the secretary of state, upon the future effective date specified in the certificate of cancellation or a judicial decree or as specified in this act.

(c) The fee required by K.S.A. 56-1a605, *and amendments thereto*, shall be paid at the time of the filing of a certificate of limited partnership, a certificate of amendment or a certificate of cancellation.

(d) The fee required by K.S.A. 56-1a605, *and amendments thereto*, shall be paid for a certified copy of any paper on file pursuant to this act, and the fee fixed pursuant to K.S.A. 56-1a605, *and amendments thereto*, shall be paid for each page copied.

Sec. 98. K.S.A. 56-1a502 is hereby amended to read as follows: 56-1a502. Before doing business in the state of Kansas, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state together with payment of the fee required by K.S.A. 56-1a605 and amendments thereto, an original copy executed by a general partner, together with a duplicate copy, of an application for registration as a foreign limited partnership, setting forth:

(a) The name of the foreign limited partnership;

(b) the state or other jurisdiction or country where organized, the date of its organization and a statement issued by an appropriate authority in that jurisdiction *or by a third-party agent authorized by the secretary of state* that the foreign limited partnership exists in good standing under the laws of the jurisdiction of its organization;

(c) the nature of the business or purposes to be conducted or promoted in the state of Kansas;

(d) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by subsection (b) of K.S.A. 56-1a504 and amendments thereto;

(e) an irrevocable written consent of the foreign limited partnership that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the secretary of state as provided for in K.S.A. 60-304 and amendments thereto and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the general partners of the foreign limited partnership;

(f) the name and business, residence or mailing address of each of the general partners; and

(g) the date on which the foreign limited partnership first did, or intends to do, business in the state of Kansas.

Sec. 99. K.S.A. 2003 Supp. 56-1a606 is hereby amended to read as follows: 56-1a606. (a) Every limited partnership organized under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return. If the limited partnership applies for an extension of time for filing its annual income tax return under the internal revenue code or under K.S.A. 79-3221 and amendments thereto, the limited partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221 and amendments thereto. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

(1) The name of the limited partnership; and

(2) a list of the partners owning at least 5% of the capital of the partnership, with the post office address of each.

(c) Every limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and ~~location, listed by section, range, township and~~ county of each lot, tract or parcel of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing the report, the limited partnership shall pay to the secretary of state an annual franchise tax in an amount equal to \$2 for each \$1,000 of the partners' net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited partnership to the secretary as provided by this subsection shall not be disclosed by the secretary.

(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, and the provisions of subsection (a) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a domestic corporation's articles of incorporation for failure to file an annual report or pay the required franchise tax, shall be applicable to the certificate of partnership of any limited partnership which fails to file its annual report or pay the franchise tax within 90 days of the time prescribed in this section for filing and paying the same. Whenever the certificate of partnership of a limited partnership is forfeited for failure to file an annual report or to pay the required franchise tax, the limited partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees and taxes, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

Sec. 100. K.S.A. 2003 Supp. 56-1a607 is hereby amended to read as follows: 56-1a607.

(a) Every foreign limited partnership shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited partnership's annual Kansas income tax return. If the limited partnership applies for an extension of time for filing its annual income tax return under the internal revenue code or under K.S.A. 79-3221 and amendments thereto, the limited partnership shall also apply, not more than 90 days after the due date of its annual report, to the secretary of state for an extension of the time for filing its report and an extension shall be granted for a period of time corresponding to that granted under the internal revenue code or K.S.A. 79-3221 and amendments thereto. The application shall include a copy of the application to income tax authorities.

(b) The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited partnership.

(c) Every foreign limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and ~~location, listed by section, range, township and~~ county of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under subsection (c)(1) was acquired after July 1, 1981.

(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded to the secretary of state. At the time of filing the report, the foreign limited partnership shall pay to the secretary of state an annual franchise tax in an amount equal to \$2 for each

\$1,000 of the partners' net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, except that no annual tax shall be less than \$40 or more than \$5,000. The amount of any such franchise tax paid by the limited partnership to the secretary as provided by this subsection shall not be disclosed by the secretary.

(e) The provisions of K.S.A. 17-7509 and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required franchise tax, and the provisions of subsection (b) of K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a foreign corporation's authority to do business in this state for failure to file an annual report or pay the required franchise tax, shall be applicable to the authority of any foreign limited partnership which fails to file its annual report or pay the franchise tax within 90 days of the time prescribed in this section for filing and paying the same. Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file an annual report or to pay the required franchise tax, the foreign limited partnership's authority to do business in this state may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state and paying to the secretary of state all fees and taxes, including any penalties thereon, due to the state. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506 and amendments thereto for filing a certificate of extension, restoration, renewal or revival of a corporation's articles of incorporation.

New Sec. 101. (a) Activities of a foreign limited liability company which do not constitute doing business within the meaning of K.S.A. 2003 Supp. 17-76,121, and amendments thereto, include:

- (1) Maintaining, defending or settling an action or proceeding;
- (2) holding meetings or carrying on any other activity concerning its internal affairs;
- (3) maintaining bank accounts;
- (4) maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositories with respect to those securities;
- (5) selling through independent contractors;
- (6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;
- (7) creating or acquiring indebtedness, mortgages or security interests in real or personal property;
- (8) securing or collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired;
- (9) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions of like nature; and
- (10) transacting business in interstate commerce.

(b) The ownership in this state of income producing real property or tangible personal property, other than property excluded under subsection (a), constitutes doing business in this state.

(c) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation or regulation under any other law of this state.

(d) The provisions of this section shall be part of and supplemental to the Kansas revised limited liability company act.

New Sec. 102. (a) When any limited partnership that is required to file an annual report with the secretary of state, shall apply for an extension of time for filing its annual income tax return with the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, and subsection (b). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed. Nothing in this section shall be deemed to prohibit the secretary of state from

issuing any document described in K.S.A. 56-1a605, and amendments thereto, concerning a limited partnership.

(b) A copy of such application shall be open to inspection by or disclosure to any person who was a partner of the limited partnership during any part of the period covered by the extension.

(c) The provisions of this section shall be part of and supplemental to the revised uniform limited partnership act.

New Sec. 103. (a) Activities of a foreign limited partnership which do not constitute doing business within the meaning of K.S.A. 56-1a502, and amendments thereto, include:

- (1) Maintaining, defending or settling an action or proceeding;
- (2) holding meetings or carrying on any other activity concerning its internal affairs;
- (3) maintaining bank accounts;
- (4) maintaining offices or agencies for the transfer, exchange and registration of the limited partnership's own securities or maintaining trustees or depositories with respect to those securities;

(5) selling through independent contractors;

(6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(7) creating or acquiring indebtedness, mortgages or security interests in real or personal property;

(8) securing or collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired;

(9) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions of like nature; and

(10) transacting business in interstate commerce.

(b) The ownership in this state of income producing real property or tangible personal property, other than property excluded under subsection (a), constitutes doing business in this state.

(c) This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation or regulation under any other law of this state.

(d) The provisions of this section shall be part of and supplemental to the revised uniform limited partnership act.

New Sec. 104. (a) When any limited liability partnership that is required to file an annual report with the secretary of state, shall apply for an extension of time for filing its annual income tax return from the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amendments thereto, a proper judicial order, and subsection (b). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

(b) A copy of such application shall be open to inspection by or disclosure to any person who was a partner of the limited liability partnership during any part of the period covered by the extension.

(c) The provisions of this section shall be part of and supplemental to the revised uniform partnership act.

New Sec. 105. (a) The state board of healing arts shall adopt rules and regulations to limit the percentage of ownership when a licensed physician assistant forms a professional corporation pursuant to K.S.A. 17-2706 *et seq.*, and amendments thereto, in combination with other professional services.

(b) This section shall be part of and supplemental to the physician assistant licensure act.

New Sec. 106. (a) The state board of healing arts shall adopt rules and regulations to limit the percentage of ownership when a licensed occupational therapist forms a professional

corporation pursuant to K.S.A. 17-2706 *et seq.*, and amendments thereto, in combination with other professional services.

(b) This section shall be part of and supplemental to the occupational therapy practice act.

Sec. 107. K.S.A. 2003 Supp. 17-2707 is hereby amended to read as follows: 17-2707. As used in this act, unless the context clearly indicates that a different meaning is intended:

(a) "Professional corporation" means a corporation organized under this act.

(b) "Professional service" means the type of personal service rendered by a person duly licensed, *registered or certified* by this state as a member of any of the following professions, each paragraph constituting one type:

- (1) A certified public accountant;
- (2) an architect;
- (3) an attorney-at-law;
- (4) a chiropractor;
- (5) a dentist;
- (6) an engineer;
- (7) an optometrist;
- (8) an osteopathic physician or surgeon;
- (9) a physician, surgeon or doctor of medicine;
- (10) a veterinarian;
- (11) a podiatrist;
- (12) a pharmacist;
- (13) a land surveyor;
- (14) a licensed psychologist;
- (15) a specialist in clinical social work;
- (16) a licensed physical therapist;
- (17) a landscape architect;
- (18) a registered professional nurse;
- (19) a real estate broker or salesperson;
- (20) a clinical professional counselor;
- (21) a geologist;
- (22) a clinical psychotherapist; ~~and~~
- (23) a clinical marriage and family therapist;
- (24) *a licensed physician assistant; and*
- (25) *a licensed occupational therapist.*

(c) "Regulating board" means the court, board or state agency which is charged with the licensing, *registering or certifying* and regulation of the practice of the profession which the professional corporation is organized to render.

(d) "Qualified person" means:

(1) Any natural person licensed, *registered or certified* to practice the same type of profession which any professional corporation is authorized to practice;

(2) the trustee of a trust which is a qualified trust under subsection (a) of section 401 of the federal internal revenue code, as in effect on January 1, ~~2001~~ 2004, or of a contribution plan which is a qualified employee stock ownership plan under subsection (a) of section 409A of the federal internal revenue code, as in effect on January 1, ~~2001~~ 2004; or

(3) the trustee of a revocable living trust established by a natural person who is licensed, *registered or certified* to practice the type of profession which any professional corporation is authorized to practice, if the terms of such trust provide that such natural person is the principal beneficiary and sole trustee of such trust and such trust does not continue to hold title to professional corporation stock following such natural person's death for more than a reasonable period of time necessary to dispose of such stock.

Sec. 108. K.S.A. 2003 Supp. 17-2710 is hereby amended to read as follows: 17-2710. A professional corporation may be organized only for the purpose of rendering one type of professional service and service ancillary thereto and shall not engage in any other business, except that a single professional corporation may be organized to and render professional services under any two or more of the types set forth in items (2), (6), (13) and (17) ~~or~~ of subsection (b) of K.S.A. 17-2707, and amendments thereto; under any two or more of the

types set forth in items (4), (5), (7), (8), (9), (11), (12), (14), (15), (16) or (18) of subsection (b) of K.S.A. 17-2707, and amendments thereto; or under any two or more of the types set forth in items (8), (9), (18), (24) and (25) of subsection (b) of K.S.A. 17-2707, and amendments thereto, but shall be deemed to have the following purposes, whether or not authorized by its article of incorporation:

(a) To purchase, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

(b) to purchase, receive, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares of other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, insurance or annuities in any form, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof;

(c) to pay pensions and establish pension plans, profit-sharing plans, stock bonus plans, stock option plans and other incentive plans for any or all of its directors, officers and employees;

(d) to do all things necessary or incidental to the practice of the profession which the professional corporation is authorized to practice.”;

And by renumbering sections accordingly;

Also on page 108, in line 26, by striking “and” and inserting a comma; also in line 26, after “17-7514”, by inserting “, 56-1a156 and 56-1a502”; in line 27, after “Supp.”, by inserting “17-2036, 17-2707, 17-2710.”; in line 30, by striking “and” and inserting a comma; also in line 30, after “17-7508”, by inserting “, 17-7678, 17-76,121, 17-76,139, 56-1a606 and 56-1a607”;

On page 1, in the title, in line 25, after “17-7512”, by striking “and” and inserting a comma; also in line 25, after “17-7514”, by inserting “, 56-1a156 and 56-1a502”; also in line 25, after “Supp.”, by inserting “17-2036, 17-2707, 17-2710.”; in line 29, after “17-7507”, by striking “and” and inserting a comma; also in line 29, after “17-7508”, by inserting “, 17-7678, 17-76,121, 17-76,139, 56-1a606 and 56-1a607”;

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

MICHAEL R. O'NEAL
DOUGLAS PATTERSON
JANICE L. PAULS
Conferees on part of House

JOHN VRATIL
EDWARD W. PUGH
GRETA GOODWIN
Conferees on part of Senate

On motion of Rep. O'Neal, the conference committee report on **SB 29** was adopted.

Call of the House was demanded.

On roll call, the vote was: Yeas 110; Nays 14; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dreher, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kirk, Krehbiel, Kuether, Landwehr, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Ballou, Dillmore, Edmonds, Faber, Howell, Huebert, Kauffman, Klein, Lane, Larkin, McKinney, Ostmeyer, Powers, Ward.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 304**, 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 4, by deleting all in lines 10 through 13; in line 40, by striking all after the period; by striking all in line 41; in line 42, by striking all before "School";

By striking all on pages 6 and 7 and inserting:

"Sec. 4. K.S.A. 2003 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) (1) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in *paragraph (3) of this subsection*, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddell Boys Ranch, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution shall not be counted. *A pupil enrolled in a virtual school in a district but who is not a resident of the state of Kansas shall not be counted.*

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs. The state board shall select not more than 5,500 preschool-aged at-risk pupils to be counted in any school year.

(e) "Enrollment" means: (1) For districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this clause (1), the number of pupils regularly enrolled in the district on September 20; (2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or (3) the number of pupils as determined under K.S.A. 72-6447, and amendments thereto.

(f) "Adjusted enrollment" means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, correlation weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, special education and related services weighting, and transportation weighting to enrollment.

(g) "At-risk pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) "Program weighting" means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

(i) "Low enrollment weighting" means an addend component assigned to enrollment of districts having under 1,725 enrollment on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having 1,725 or over enrollment.

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities. School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget and budgeted therein the total amount authorized for the school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

(k) "Transportation weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

(l) "Correlation weighting" means an addend component assigned to enrollment of districts having 1,725 or over enrollment on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts having under 1,725 enrollment.

(m) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities.

Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

(n) "Juvenile detention facility" means: (1) Any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail;

(2) any level VI treatment facility licensed by the Kansas department of health and environment which is a psychiatric residential treatment facility for individuals under the age of 21 which conforms with the regulations of the centers for medicare/medicaid services and the joint commission on accreditation of health care organizations governing such facilities; and

(3) the Forbes Juvenile Attention Facility, the Sappa Valley Youth Ranch of Oberlin, Salvation Army/Koch Center Youth Services, the Clarence M. Kelley Youth Center, the Clarence M. Kelley Transitional Living Center, Trego County Secure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina, St. Francis Center at Salina, King's Achievement Center, and Liberty Juvenile Services and Treatment.

(o) "Special education and related services weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.

(p) "Virtual school" means any kindergarten or grades one through 12 course offered for credit that uses distance-learning technologies which predominantly use internet-based methods to deliver instruction and for which the course content is available on an "anytime, anyplace" basis, but the instruction occurs asynchronously with the teacher and pupil in separate locations, not necessarily located within a local education agency.

New Sec. 5. (a) As used in this section:

(1) "Medication" means a medicine for the treatment of anaphylactic reactions or asthma which is prescribed by: (A) A physician licensed to practice medicine and surgery; (B) an advanced registered nurse practitioner issued a certificate of qualification pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs as provided by K.S.A. 65-1130, and amendments thereto; or (C) a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

(2) "School" means any school property or grounds upon which is located a building or structure used by a school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of students enrolled in kindergarten or any of the grades one through 12 or at any school sponsored activity or event.

(b) Each school district shall adopt a policy authorizing the self-administration of medication by students in grades 6 through 12. A school district may adopt a policy authorizing the self-administration of medication for students in kindergarten and grades 1 through 5. A student shall meet all requirements of a policy adopted pursuant to this subsection. Such policy may include, but shall not be limited to:

(1) A requirement of a written statement from the student's health care provider stating the name and purpose of the medication; the prescribed dosage; the time the medication is to be regularly administered, and any additional special circumstances under which the medication is to be administered; and the length of time for which the medication is prescribed;

(2) a requirement that the student provide a written authorization from the student's health care provider and parent or guardian stating that such student has been instructed on self-administration of the medication and is authorized to do so in school; and

(3) a requirement that the student's parent or guardian provide written authorization for the self-administration of medication.

(c) Schools may require annual renewal of parental authorization for the self-administration of medication.

(d) A school district, and its employees and agents, which authorizes the self-administration of medication in compliance with the provisions of this section shall not be liable in any action for any injury resulting from the self-administration of medication.

(e) The school district shall provide written notification to the parent or guardian of a student that the school and its employees and agents are not liable for any injury resulting from the self-administration of medication. The parent or guardian of the student shall sign a statement acknowledging that the school incurs no liability for any injury resulting from the self-administration of medication and agreeing to indemnify and holding the school, and its employees and agents, harmless against any claims relating to the self-administration of such medication.

(f) The provisions of this section shall expire on June 30, 2005.

Sec. 6. K.S.A. 72-6439 and K.S.A. 2003 Supp. 72-6407 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, in line 16, by striking all after the semicolon; in line 21, following “72-6439” by inserting “and K.S.A. 2003 Supp. 72-6407”; also in line 21, by striking “section” and inserting “sections”;

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

KATHE DECKER
CAROL E. BEGGS
BILL REARDON
Conferees on part of House

DWAYNE UMBARGER
JOHN VRATIL
CHRISTINE DOWNEY
Conferees on part of Senate

On motion of Rep. Decker, the conference committee report on **SB 304** was adopted.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2037**, submits the following report:

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

On page 1, by striking all in lines 23 through 43;

By striking all on pages 2 through 12 and inserting:

“Section 1. K.S.A. 58-2221 is hereby amended to read as follows: 58-2221. Every instrument in writing that conveys:

- (a) Real estate;
- (b) any estate or interest created by an oil and gas lease; ~~or;~~
- (c) ~~any estate or interest created by any lease or easement involving wind resources and technologies to produce and generate electricity; or~~
- (d) whereby any real estate may be affected, proved or acknowledged, and certified in the manner hereinbefore prescribed, may be recorded in the office of register of deeds of the county in which such real estate is situated. ~~Provided,~~ It shall be the duty of the register of deeds to file the same for record immediately, and in those counties where a numerical index is maintained in ~~his or her~~ *the register of deeds’* office, the register of deeds shall compare such instrument, before copying the same in the record, with the last record of transfer in ~~his or her~~ *the register of deeds’* office of the property described ~~and~~. If the register of deeds finds such instrument contains apparent errors, ~~he or she~~ *the register of deeds* shall not record the same until ~~he or she~~ *she* shall have notified the grantee ~~where instrument until the grantee has been notified,~~ if such notice is reasonably possible.

The grantor, lessor, grantee or lessee or any other person conveying or receiving real property or other interest in real property upon recording the instrument in the office of register of deeds shall furnish the register of deeds the full name and last known post-office address of the person to whom the property is conveyed or ~~his or her~~ *such person’s* designee. The register of deeds shall forward such information to the county clerk of the county who shall make any necessary changes in address records for mailing tax statements.

New Sec. 2. Every instrument that conveys any estate or interest created by any lease or easement involving wind resources and technologies to produce and generate electricity shall include:

- (a) A description of the real property subject to the easement and a description of the real property benefitting from the wind lease or easement;
- (b) a description of the vertical and horizontal angles, expressed in degrees, and distances from the site of the wind power system in which an obstruction to the wind is prohibited or limited;
- (c) all terms or conditions under which the lease or easement is granted or may be terminated, except that if the instrument is recorded under K.S.A. 58-2221, and amendments thereto, any compensation received by the owner of the real property may be excluded; and
- (d) any other provisions necessary or desirable to execute the instrument.

New Sec. 3. (a) When a recorded deed or conveyance covering mineral or royalty rights purports to cover mineral or royalty rights not owned by the grantor, or such deed or conveyance includes a general conveyance provision, including, but not limited to, a “mother hubbard” clause or other cover-all clause, for other property conveyed by grantor and such general conveyance provision should not have been included in such deed or conveyance, then any party with an interest in the real estate covered by such deed or conveyance may make written demand upon the grantee or grantor, as applicable, by certified mail, return receipt requested, to rescind or reform the general conveyance provision.

(b) (1) Any grantee or grantor who refuses or neglects to correct or reform such legal description in the office of the register of deeds within 30 days after written demand has been made as provided in subsection (a), unless a longer period has been agreed to in writing by the parties, shall be liable in damages to the party for whom the demand was made in the sum equal to the greater of: (A) An amount up to \$10,000 per title affected, or (B) an amount equal to the fair market value of the mineral or royalty interests actually conveyed by such general conveyance clause and not specifically described in the instrument, and reasonable attorney’s fee for preparing and prosecuting the action before any court of competent jurisdiction. The plaintiff in such action may recover any additional damages that the evidence in the case warrants.

(2) If such legal description has not been corrected or reformed within the time period allowed under paragraph (1), the court shall expedite an action brought by any party pursuant to K.S.A. 60-1002, and amendments thereto, to quiet title. Such court ruling shall not relieve the grantee or grantor, as applicable, from any damages allowed under paragraph

(1) nor relieve the grantee or grantor from any responsibilities under the provisions of this section.

(c) The remedies provided under this section shall not affect other remedies or damages provided by statute or law.

(d) A suit must be filed under this section within two years after the date the party making demand has actual knowledge of the improper legal description or conveyance.

(e) As used in this section:

(1) "Mother Hubbard clause" means a provision in a deed or other instrument in writing which is intended to convey an interest in real estate and which describes the property to be conveyed as all of the grantor's property in a certain county;

(2) "general conveyance provision" means a provision in a deed or other instrument describing an interest in real estate which, in addition to referring to the real estate specifically described in such deed or other instrument, describes unspecified other mineral or royalty rights or interests of the grantor in an entire township, county or state; and

(3) "deed or conveyance covering mineral or royalty rights" means any deed or conveyance covering the grantor's mineral rights or the grantor's royalty rights.

Sec. 4. K.S.A. 58-2221 is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.;

In the title, by striking all in lines 16 through 20 and inserting: "AN ACT relating to certain leases or easements; concerning the recording thereof; amending K.S.A. 58-2221 and repealing the existing section.;"

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

STAN CLARK
JIM BARONE
JAY SCOTT EMLER
Conferees on part of Senate

CARL DEAN HOLMES
CARL C. KREHBIEL
ANNIE KUETHER
Conferees on part of House

On motion of Rep. Holmes, the conference committee report on **HB 2037** was adopted.

On roll call, the vote was: Yeas 119; Nays 5; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mays, McCreary, McKinney, Merrick, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Carter, Mason, McLeland, F. Miller, Vickrey.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2067**, 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 Amended by Senate on Final Action, as follows:

On page 1, by striking all in lines 22 through 43;

By striking all on pages 2 through 16 and inserting:

“New Section 1. (a) Any person issued a special permit under the provisions of K.S.A. 8-1911, and amendments thereto, for the purpose of moving cotton modules on the highways of this state, shall be allowed to move such cotton modules 24-hours per day. Such person shall comply with all applicable provisions of K.S.A. 8-1911, and amendments thereto, and rules and regulations adopted by the secretary.

(b) This section shall be part of and supplemental to the uniform act regulating traffic on highways.

New Sec. 2. As applied to the regulation of motor carriers, the provisions of this act and all grants of power, authority and jurisdiction herein made to the state corporation commission shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of this act are expressly granted to and conferred upon the state corporation commission.

New Sec. 3. The state corporation commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 66-1,108, and amendments thereto, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction. The commission shall have general supervision of all motor carriers operating in this state. The commission shall inquire into any neglect or violations of the laws pertaining to the regulation of motor carriers of this state by any motor carrier or any person retaining the transportation services of that motor carrier. From time to time, the commission shall carefully examine and inspect the condition of each motor carrier, its equipment, the manner of its conduct and its management with reference to the public safety and convenience. Nothing in this section shall be construed as relieving any motor carrier from responsibility or liability for damage to person or property.

New Sec. 4. The state corporation commission shall have the authority to examine all accounts and records pertaining to its regulation of motor carriers. The agents, accountants, examiners or inspectors designated by the commission shall have authority under the direction of the transportation division to inspect and examine any and all books, accounts, papers, records, property and memoranda pertinent to its regulation of motor carriers.

Sec. 5. K.S.A. 2003 Supp. 66-1,109 is hereby amended to read as follows: 66-1,109. This act shall not require the following carriers to obtain a certificate, license or permit from the commission or file rates, tariffs, annual reports or provide proof of insurance with the commission:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and the suburban territory in this state within three miles of the corporate limits, or between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority, except that none of the exemptions specified in this subsection (a) shall apply to wrecker carriers and none of such exemptions shall apply to motor carriers of passengers, other than motor carriers of passengers operating as a part of the general transit system serving any such city or village in this or another state, operating on regular routes and time schedules between any city or village in this or another state, and the suburban territory in this state;

(b) a private motor carrier who operates within a radius of 25 miles beyond the corporate limits of its city or village of domicile, or who operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority;

(c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such

owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) persons operating motor vehicles used only to transport property when no common carrier is accessible, but when common-carrier service is available then this last exemption is limited to the transportation of such property from origin to the nearest practicable common-carrier receiving or loading point, or from a common-carrier unloading point by way of the shortest practicable route to destination, providing such motor vehicle does not pass a practicable delivery or receiving point of a common carrier equipped to transport such load, or when used to transport property from the point of origin to point of destination thereof when the destination of such property is less distant from the point of origin thereof than the nearest practicable common-carrier receiving or loading point equipped to transport such load;

(e) (1) the transportation of children to and from school, or (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities;

(f) a new vehicle dealer as defined by K.S.A. 8-2401, and amendments thereto, when transporting property to or from the place of business of such dealer;

(g) motor vehicles carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale;

(h) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

(i) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;

(j) motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail, and the operation of motor vehicles used exclusively by organizations operating public transportation systems pursuant to 49 U.S.C. sections 5307, 5310 and 5311;

(k) any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;

(l) motor vehicles used to transport water for domestic purposes, *as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto*, or livestock consumption;

(m) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete paving mixtures, blacktop, dirt or fill material to a construction site, highway maintenance or construction project or other storage facility and the operation of ready-mix concrete trucks in transportation of ready-mix concrete;

(n) the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;

(o) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

(p) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state;

(q) transportation by taxi or bus companies operated exclusively within any city or within 25 miles of the point of its domicile in a city;

(r) a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and

vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;

(s) any person operating a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, transporting property sold or to be sold by the owner or operator of such motor vehicle, except motor vehicles transporting hazardous materials which require placards;

(t) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers; ~~and~~

(u) transportation of newspapers published at least one time each week; *and*

(v) *transportation of animal dung to be used for fertilizer.*

Sec. 6. K.S.A. 2003 Supp. 66-1,129 is hereby amended to read as follows: 66-1,129. (a) The commission shall adopt rules and regulations necessary to carry out the provisions of this act. No public motor carrier of property, household goods or passengers or private motor carrier of property shall operate or allow the operation of any motor vehicle on any public highway in this state except within the provisions of the rules and regulations adopted by the commission. Rules and regulations adopted by the commission shall include:

(1) Every vehicle unit shall be maintained in a safe and sanitary condition at all times.

(2) Every driver of a public motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 18 years of age. Every driver of a private motor carrier, operating as a carrier of intrastate commerce within this state, shall be at least 16 years of age. All such drivers shall be competent to operate the motor vehicle under such driver's charge.

(3) Minimum age requirements for every driver of a motor carrier, operating as a carrier of interstate commerce, shall be consistent with federal motor carrier regulations.

(4) Hours of service for operators of all motor carriers to which this act applies shall be fixed by the commission.

(5) Accidents arising from or in connection with the operation of motor carriers shall be reported to the commission within the time, in the detail and in the manner as the commission requires.

(6) Every motor carrier shall have attached to each unit or vehicle distinctive marking adopted by the commission.

(7) Motor carrier transportation requirements that are consistent with continuation of the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous materials.

(b) No rules and regulations adopted by the commission pursuant to this section shall require the operator of any motor vehicle having a gross vehicle weight rating or gross combination weight rating of not more than 10,000 pounds to submit to a physical examination, unless required by federal laws or regulations.

(c) Any rules and regulations of the commission, adopted pursuant to this section, shall not apply to the following, while engaged in the carriage of intrastate commerce in this state:

(1) The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer in or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.

(2) The transportation of children to and from school, or to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities.

(3) (A) Except for motor vehicles under subparagraph (B), motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards.

(B) Except vehicles transporting hazardous materials which require placards, motor vehicles, with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work and such tools, property or material are being transported to or from an active construction site located within a radius of 25 miles of the principal place of business of the motor carrier.

(4) Persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles.

(5) The operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers.

(6) Motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivisions of this state.

(7) Any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work.

(8) Motor vehicles used to transport water for domestic purposes, *as defined by subsection (c) of K.S.A. 82a-701, and amendments thereto*, or livestock consumption.

(9) The operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state, unless the implement of husbandry is transported on a commercial motor vehicle.

Sec. 7. K.S.A. 66-1,142b is hereby amended to read as follows: 66-1,142b. (a) Any ~~motor carrier person~~ violating any statute, commission orders or rules and regulations ~~relevant to motor carriers~~ adopted by the state corporation commission *pursuant to the motor carrier act and other laws relevant to motor carriers* shall be subject to a civil penalty of not less than \$100 and not more than \$1,000 for negligent violations, and not more than \$5,000 for intentional violations.

(b) In construing and enforcing a civil penalty in accordance with this section, any act, omission or failure of any officer, agent or other person acting for or employed by any motor carrier while acting within the scope of such person's employment, shall in every case be deemed the act, omission or failure of the motor carrier.

(c) Every day during which the ~~motor carrier person~~ fails to comply with any order ~~or direction~~ of the commission, or any applicable statute, rule or regulation, shall constitute a separate and distinct violation.

(d) Civil penalties shall be enforced and collected by an attorney for the corporation commission in the appropriate district court.

(e) Civil penalties shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the motor carrier license fee fund.

(f) The commission is granted the power, by general order or otherwise, to prescribe reasonable rules and regulations for the assessment of administrative civil penalties and sanctions for violations of any statute, commission orders or rules and regulations adopted by the commission.

Sec. 8. K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,109 and 66-1,129 are hereby repealed. Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.”;

In the title, by striking all of lines 14 through 19 and inserting: “AN ACT relating to motor vehicles; concerning the regulation thereof; relating to motor carriers; amending K.S.A. 66-1,142b and K.S.A. 2003 Supp. 66-1,109 and 66-1,129 and repealing the existing sections.”;

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

STEPHEN R. MORRIS
DAVID ADKINS
CHRISTINE DOWNEY
Conferees on part of Senate

MELVIN J. NEUFELD
CLARK SHULTZ
JOE SHRIVER
Conferees on part of House

On motion of Rep. Neufeld to not adopt the conference committee report and a new conference committee be appointed, the motion prevailed.

Speaker Mays thereupon appointed Rep. Neufeld, Shultz and Shriver as second conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2201**, submits the following report:

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

On page 1, by striking all in lines 31 through 43;

By striking all on pages 2 through 39;

On page 40, by striking all in lines 1 through 17 and inserting:

“Section 1. K.S.A. 2003 Supp. 60-1111 is hereby amended to read as follows: 60-1111.

(a) *Bond by contractor.* Except as provided in ~~subsection (c)~~ *this section*, whenever any public official, under the laws of the state, enters into contract in any sum exceeding ~~\$40,000~~ *\$100,000* with any person or persons for the purpose of making any public improvements, or constructing any public building or making repairs on the same, such officer shall take, from the party contracted with, a bond to the state of Kansas with good and sufficient sureties in a sum not less than the sum total in the contract, conditioned that such contractor or the subcontractor of such contractor shall pay all indebtedness incurred for labor furnished, materials, equipment or supplies, used or consumed in connection with or in or about the construction of such public building or in making such public improvements.

A contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer. A public official entering into a contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer.

(b) *Filing and limitations.* The bond required under subsection (a) shall be filed with the clerk of the district court of the county in which such public improvement is to be made. When such bond is filed, no lien shall attach under this article; ~~and if when such bond is filed liens have already been filed, such liens.~~ *Any liens which have been filed prior to the filing of such bond shall be discharged.* Any person to whom there is due any sum for labor or material furnished, as stated in ~~the preceding section subsection (a),~~ or such person's assigns, may bring an action on such bond for the recovery of such indebtedness but no action shall be brought on such bond after six months from the completion of such public improvements or public buildings.

(c) In any case of a contract for construction, repairs or improvements for the state or a state agency under K.S.A. 75-3739 or 75-3741, and amendments thereto, a certificate of deposit payable to the state may be accepted in accordance with and subject to K.S.A. 60-1112, and amendments thereto. When such certificate of deposit is so accepted, no lien shall attach under this article; ~~and if when such certificate of deposit is so accepted, liens have already been filed, such liens.~~ *Any liens which have been filed prior to the acceptance of such certificate of deposit shall be discharged.* Any person to whom there is due any sum for labor furnished, materials, equipment or supplies used or consumed in connection with

or for such contract for construction, repairs or improvements; shall make a claim therefor with the director of purchases under K.S.A. 60-1112, and amendments thereto.

Sec. 2. K.S.A. 2003 Supp. 60-1111 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, by striking all in lines 17 through 28 and inserting:

“AN ACT concerning public improvements and buildings; relating to public works bonds; amending K.S.A. 2003 Supp. 60-1111 and repealing the existing section.”;

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

BARBARA P. ALLEN
KAY O'CONNOR
DONALD BETTS, JR.
Conferees on part of Senate

JENE VICKREY
RALPH OSTMEYER
ROGER E. TOELKES
Conferees on part of House

On motion of Rep. Vickrey, the conference committee report on **HB 2201** was adopted.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2545**, 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 33, by striking all in lines 35 through 43;

By striking all on pages 34 through 38;

On page 39, by striking all in lines 1 through 13;

By renumbering the remaining sections accordingly;

On page 43, by striking all in lines 25 and 26;

By renumbering the remaining section accordingly;

In the title, in line 22, by striking “; also repealing K.S.A. 2003 Supp. 40-428a”;

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

RUTH TEICHMAN
JIM BARNETT
CHRIS STEINEGER
Conferees on part of Senate

PATRICIA BARBIERI-LIGHTNER

STANLEY DREHER

NILE DILLMORE

Conferees on part of House

On motion of Rep. Barbieri-Lightner, the conference committee report on **HB 2545** was adopted.

On roll call, the vote was: Yeas 95; Nays 29; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Campbell, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faust-Goudeau, Flaharty, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Hill, Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Krehbiel, Landwehr, Loganbill, Long-Mast, Mason, Mays, McCreary, McKinney, McLeland, Merrick, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Ostmeyer, Owens, Patterson, Phelps, Pottorff, Powell, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thull, Vickrey, Ward, Wilk, Wilson, Yoder, Yonally.

Nays: Burroughs, Carlin, Faber, Feuerborn, Flora, Henderson, Henry, Holland, Howell, Kirk, Klein, Kuether, Lane, Larkin, Light, M. Long, Loyd, F. Miller, J. Miller, Osborne, Pauls, Powers, Reardon, Rehorn, Shriver, Thimesch, Toelkes, J. Williams, Winn.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2557**, submits the following report:

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

On page 1, in line 34, by striking "Menninger Memorial state park in Shawnee county" and inserting "state park no. 24 in Shawnee county, which shall be given a permanent name to be determined by the legislature at a future date"; in line 37, by striking "Menninger Memorial state park" and inserting "state park no. 24"; in lines 39 and 40, by striking "Menninger Memorial" and inserting "such";

On page 2, in line 3, by striking "Menninger Memorial state park" and inserting "state park no. 24"; following line 3, by inserting:

"Sec. 2. K.S.A. 2003 Supp. 32-1005 is hereby amended to read as follows: 32-1005. (a) Commercialization of wildlife is knowingly committing any of the following, except as permitted by statute or rules and regulations:

(1) Capturing, killing or possessing, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(2) selling, bartering, purchasing or offering to sell, barter or purchase, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(3) shipping, exporting, importing, transporting or carrying; causing to be shipped, exported, imported, transported or carried; or delivering or receiving for shipping, exporting, importing, transporting or carrying all or any part of any wildlife protected by this section, for profit or commercial purposes; or

(4) purchasing, for personal use or consumption, all or any part of any wildlife protected by this section.

(b) The wildlife protected by this section and the minimum value thereof are as follows:

(1) Eagles, \$500;

(2) deer or antelope, \$400;

(3) elk or buffalo, \$600;

(4) furbearing animals, \$25;

(5) wild turkey, \$75;

- (6) owls, hawks, falcons, kites, harriers or ospreys, \$200;
- (7) game birds, migratory game birds, resident and migratory nongame birds, game animals and nongame animals, \$20 unless a higher amount is specified above;
- (8) fish *and mussels*, the value for which shall be no less than the value listed for the appropriate fish *or mussels* species in the monetary values of freshwater fish *or mussels* and fish kill counting guidelines of the American fisheries society †, special publication number ~~24~~ 30;
- (9) turtles, \$10 each for unprocessed turtles or \$8 per pound or fraction of a pound for processed turtle parts;
- (10) bullfrogs, \$2, whether dressed or not dressed;
- (11) any wildlife classified as threatened or endangered, \$200 unless a higher amount is specified above; and
- (12) any other wildlife not listed above, \$10.
- (c) Possession of wildlife, in whole or in part, captured or killed in violation of law and having an aggregate value of \$500 or more, as specified in subsection (b), is prima facie evidence of possession for profit or commercial purposes.
- (d) Commercialization of wildlife having an aggregate value of \$500 or more, as specified in subsection (b), is a severity level 10, nonperson felony. Commercialization of wildlife having an aggregate value of less than \$500, as specified in subsection (b), is a class A nonperson misdemeanor.
- (e) In addition to any other penalty provided by law, a court convicting a person of the crime of commercialization of wildlife may:

(1) Confiscate all equipment used in the commission of the crime and may revoke for a period of up to 10 years all licenses and permits issued to the convicted person by the Kansas department of wildlife and parks; and

(2) order restitution to be paid to the Kansas department of wildlife and parks for the wildlife taken, which restitution shall be in an amount not less than the aggregate value of the wildlife, as specified in subsection (b).

(f) The provisions of this section shall apply only to wildlife illegally harvested and possessed by any person having actual knowledge that such wildlife was illegally harvested.”;

Also on page 2, by renumbering sections accordingly; in line 4, by striking “is” and inserting “and 32-1005 are”;

In the title, in line 12, by striking “state parks” and inserting “wildlife and parks; relating to state parks; concerning commercialization of wildlife”; in line 13, by striking “repealing the existing section” and inserting “32-1005 and repealing the existing sections”;

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

ROBERT TYSON
MARK TADDIKEN
JANIS K. LEE
Conferees on part of Senate

BECKY HUTCHINS
JUDY MORRISON
GERALDINE FLAHARTY
Conferees on part of House

On motion of Rep. Hutchins, the conference committee report on **HB 2557** was adopted.
On roll call, the vote was: Yeas 96; Nays 28; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Compton, Cox, Craft, Crow, Davis, DeCastro, Decker, Dillmore, Dreher, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Henderson, Henry, Hill, Holland, Horst, Huff, Humerickhouse, Huntington, Hutchins, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Kuether, Lane, Larkin, Loganbill, M. Long, Loyd, Mays, McCreary, McKinney, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Owens, Patterson, Pauls, Phelps, Pottorff, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz,

Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Sloan, Storm, Svaty, Tafanelli, Thimesch, Thull, Toelkes, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Aurand, Ballou, Campbell, Carter, Dahl, Edmonds, Faber, Hayzlett, Holmes, Howell, Huebert, Huy, Jack, Krehbiel, Landwehr, Light, Long-Mast, Mason, McLeland, Merrick, F. Miller, Osborne, Ostmeyer, Powell, Powers, Siegfried, Swenson, Vickrey.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2563**, 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 3, in line 39, preceding "on" by inserting "and who is mobilized and deployed";

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

LES DONOVAN
LARRY D. SALMANS
GRETA GOODWIN

Conferees on part of Senate

PATRICIA BARBIERI-LIGHTNER
LEE E. TAFANELLI
NILE DILLMORE

Conferees on part of House

On motion of Rep. Barbieri-Lightner, the conference committee report on **HB 2563** was adopted.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2606**, submits the following report:

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

On page 1, in line 31, after "2003" by inserting "Supp.";

In the title, in line 10, by striking "elections" and inserting "certain electronic transactions; pertaining to electronic notarizations"; in line 11, after "2003" by inserting "Supp.";

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

BARBARA P. ALLEN
DONALD BETTS, JR.
KAY O'CONNOR
Conferees on part of Senate

DON MYERS
TED POWERS
JOSH SVATY
Conferees on part of House

On motion of Rep. Myers, the conference committee report on **HB 2606** was adopted.
On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeier, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Tolkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2617**, submits the following report:

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

On page 1, in line 20, by striking all after "survey"; in line 21, by striking all before the period; in line 22, by striking "landowner"; in line 23, by striking "and"; in line 29, by striking all after "surveys"; in line 30, by striking all before the comma; in line 34, by striking "A" and inserting "Neither the"; also in line 34, by striking "or occupant of the land is not" and inserting "nor the person in possession shall be"; in line 36, by striking "landowner or occupant's"; also in line 36, after "land" by inserting ", water or premises"; in line 39, by striking all before the period and inserting "person in possession";

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

MICHAEL R. O'NEAL
DOUG PATTERSON
JANICE L. PAULS
Conferees on part of House

On motion of Rep. O'Neal, the conference committee report on **HB 2617** was adopted.
On roll call, the vote was: Yeas 102; Nays 22; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dreher, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hill, Holland, Horst, Huebert, Huff, Humerickhouse, Huntington, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kirk, Klein, Kuether, Landwehr, Larkin, Light, Loganbill, Loyd, Mason, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Swenson, Tafanelli, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Burroughs, Dillmore, Edmonds, Hayzlett, Henderson, Henry, Holmes, Howell, Hutchins, Kauffman, Krehbiel, Lane, M. Long, Long-Mast, McKinney, J. Miller, Minor, Osborne, Ostmeyer, Schwab, Svaty, Thimesch.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2653**, submits the following report:

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

On page 1, by striking all of lines 29 through 43;

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

“Section 1. K.S.A. 21-3728 is hereby amended to read as follows: 21-3728. (a) Criminal hunting is hunting, shooting, ~~trapping~~ *fur harvesting*, pursuing any bird or animal, or fishing:

(1) Upon any land or nonnavigable body of water of another, without having first obtained permission of the owner or person in possession of such premises; or

(2) upon or from any public road, public road right-of-way or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises.

Criminal hunting is a class C misdemeanor. Upon the first conviction thereof after the effective date of this act, and in addition to any authorized sentence imposed by the court, such court may require the forfeiture of the convicted person's hunting ~~or~~, fishing *or fur harvesting* license, or ~~both all~~, or, in any case where such person has a combination license, the court may require forfeiture of a part or all of such license and the court may order such person to refrain from hunting ~~or~~, fishing *or fur harvesting*, or ~~both all~~, for up to one year from the date of such conviction. Upon any subsequent conviction thereof, and in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting ~~or~~, fishing *or fur harvesting* license, or ~~both all~~, or, in any case where such person has a combination license, the court shall require the forfeiture of a part or all of such license and the court shall order such person to refrain from hunting ~~or~~, fishing *or fur harvesting*, or ~~both all~~, for one year from the date of such conviction. A person licensed to hunt and following or pursuing a wounded game bird or animal upon any land of another without permission of the landowner or person in lawful possession thereof shall not be deemed to be in violation of this provision while in such pursuit, *except that this provision shall not authorize a person to remain on such land if instructed to leave by the owner thereof or other authorized person.*

The court shall notify the department of wildlife and parks of any conviction or diversion for criminal hunting.

(b) *Intentional criminal hunting is hunting, shooting, fur harvesting, pursuing any bird or animal or fishing upon any land or nonnavigable body of water of another by a person who knows such person is not authorized or privileged to do so, and:*

(1) *Such person remains therein and continues to hunt, shoot, fur harvest, pursue any bird or animal or fish in defiance of an order not to enter or to leave such premises or*

property personally communicated to such person by the owner thereof or other authorized person; or

(2) such premises or property are posted in a manner consistent with K.S.A. 32-1013, and amendments thereto.

Intentional criminal hunting is a class B misdemeanor. Upon the first conviction or a diversion agreement for intentional criminal hunting after the effective date of this act, and in addition to any authorized sentence imposed by the court, the court shall require forfeiture of such person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for six months. Upon the second conviction of intentional criminal hunting and in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for one year. Upon the third or subsequent conviction of intentional criminal hunting and in addition to any authorized sentence imposed by the court, such court shall require forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for five years.

The court shall notify the department of wildlife and parks of any conviction or diversion for intentional criminal hunting.

Sec. 2. K.S.A. 32-1013 is hereby amended to read as follows: 32-1013. (a) Any landowner or person in lawful possession of any land may post such land with signs stating that hunting, trapping or fishing on such land shall be by written permission only. It is unlawful for any person to take wildlife on land which is posted as provided in this subsection, without having in the person's possession the written permission of the owner or person in lawful possession thereof.

(b) Instead of posting land as provided in subsection (a), any landowner or person in lawful possession of any land may post such land by placing identifying purple paint marks on trees or posts around the area to be posted. Each paint mark shall be a vertical line of at least eight inches in length and the bottom of the mark shall be no less than three feet nor more than five feet high. Such paint marks shall be readily visible to any person approaching the land. Land posted as provided in this subsection shall be considered to be posted by written permission only as provided in subsection (a).

(c) A person licensed to hunt or furharvest who is following or pursuing a wounded animal on land as provided in this section posted without written permission of the landowner or person in lawful possession thereof shall not be in violation of this section while in such pursuit, except that the provisions of this subsection shall not authorize a person to remain on such land if instructed to leave by the owner or person in lawful possession of the land. Any person who fails to leave such land when instructed is subject to the provisions of subsection (b) of K.S.A. ~~21-3721~~ and 21-3728, and amendments thereto.

Sec. 3. K.S.A. 21-3728 and 32-1013 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.”;

On page 1, in the title, by striking all of lines 12 through 15 and inserting the following: “AN ACT concerning criminal hunting; relating to revocation of licenses; amending K.S.A. 21-3728 and 32-1013 and repealing the existing sections.”;

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

ROBERT TYSON
MARK TADDIKEN
JANIS K. LEE
Conferees on part of Senate

BECKY HUTCHINS
JUDY MORRISON
GERALDINE FLAHARTY
Conferees on part of House

On motion of Rep. Hutchins, the conference committee report on **HB 2653** was adopted. On roll call, the vote was: Yeas 110; Nays 14; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gilbert, Goico, Gordon, Grant, Hayzlett, Henderson, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Reardon, Rehom, Reitz, Ruff, Sawyer, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Edmonds, Faber, Freeborn, Gatewood, Goering, Henry, Howell, Huebert, Huy, Long-Mast, Ostmeyer, Powers, Schwab, Ward.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **HB 2658**, 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.

SUSAN WAGLE
JIM BARNETT
DAVID HALEY
Conferees on part of House

JIM MORRISON
WILLA DECASTRO
NANCY A. KIRK
Conferees on part of Senate

On motion of Rep. Jim Morrison, the conference committee report on **HB 2658** was adopted.

Speaker Mays thereupon appointed Reps. Jim Morrison, DeCastro and Kirk as second conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2745**, submits the following report:

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

On page 1, by striking all in lines 42 and 43;

By striking all on pages 2 through 6;

On page 7, by striking all in lines 1 through 36 and inserting:

“Sec. 2. K.S.A. 8-197 is hereby amended to read as follows: 8-197. (a) The provisions of K.S.A. 8-197 to 8-199, inclusive, and amendments thereto, shall be a part of and supplemental to the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and as used in such sections, the words and phrases defined by K.S.A. 8-126, and amendments thereto, shall have the meanings respectively ascribed to them therein.

(b) As used in K.S.A. 8-197 through 8-199, and amendments thereto:

(1) “Nonhighway vehicle” means:

(A) Any motor vehicle which cannot be registered because it is not manufactured for the purpose of using the same on the highways of this state and is not provided with the equipment required by state statute for vehicles of such type which are used on the highways of this state;

(B) any motor vehicle, other than a salvage vehicle, for which the owner has not provided motor vehicle liability insurance coverage or an approved self insurance plan under K.S.A. 40-3104, and amendments thereto, and has not applied for or obtained registration of such motor vehicle in accordance with article 1 of chapter 8 of the Kansas Statutes Annotated; or

(C) any all-terrain vehicle;

(2) "salvage vehicle" means:

(A) Any motor vehicle, *other than a late model vehicle*, which is of a type required to be registered in this state, but which cannot be registered because it has been wrecked or damaged to the extent that: The equipment required by state statute on any such vehicle used on the highways of this state is not present or is not in good condition or proper adjustment, as prescribed by state statute or any rules and regulations adopted pursuant thereto, or such vehicle is in an inoperable condition or a condition that would render the operation thereof on the highways of this state a hazard to the public safety; and in either event, such vehicle would require substantial repairs to rebuild or restore such vehicle to a condition which will permit the registration thereof;

(B) *a late model vehicle which is of a type required to be registered in this state and which has been wrecked or damaged to the extent that the total cost of repair is 75% or more of the fair market value of the motor vehicle immediately preceding the time it was wrecked or damaged and such condition was not merely exterior cosmetic damage to such vehicle as a result of windstorm or hail; or*

(C) *a motor vehicle, which is of a type required to be registered in this state that the insurer determines is a total loss and for which the insurer takes title;*

(3) "salvage title" means a certificate of title issued by the division designating a motor vehicle a salvage vehicle;

(4) "rebuilt salvage vehicle" means any motor vehicle previously issued a salvage title;

(5) "rebuilt salvage title" means a certificate of title issued by the division for a vehicle previously designated a salvage vehicle which is now designated a rebuilt salvage vehicle;

(6) "*late model vehicle*" means any motor vehicle which has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked or damaged or any of the six preceding years;

(7) "*fair market value*" means the retail value of a motor vehicle as:

(A) *Set forth in a current edition of any nationally recognized compilation, including an automated database of retail value; or*

(B) *determined pursuant to a market survey of comparable vehicles with regard to condition and equipment;*

(8) "*cost of repairs*" means the estimated or actual retail cost of parts needed to repair a vehicle plus the cost of labor computed by using the hourly labor rate and time allocations for automobile repairs that are customary and reasonable. Retail costs of parts and labor rates may be based upon collision estimating manuals or electronic computer estimating systems customarily used in the automobile industry. The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing or reinstalling tires, sound systems, or any sales tax on parts or materials to rebuild or reconstruct the vehicle.

Sec. 3. K.S.A. 2003 Supp. 8-198 is hereby amended to read as follows: 8-198. (a) A nonhighway or salvage vehicle shall not be required to be registered in this state, as provided in K.S.A. 8-135, and amendments thereto, but nothing in this section shall be construed as abrogating, limiting or otherwise affecting the provisions of K.S.A. 8-142, and amendments thereto, which make it unlawful for any person to operate or knowingly permit the operation in this state of a vehicle required to be registered in this state.

(b) Upon the sale or transfer of any nonhighway vehicle or salvage vehicle, the purchaser thereof shall obtain a nonhighway certificate of title or salvage title, whichever is applicable, in the following manner:

(1) If the transferor is a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for such vehicle under this section or under the provisions of K.S.A. 8-135, and amendments thereto, such transferor shall make application for and assign a nonhighway certificate of title or a salvage title, whichever is applicable, to the purchaser of such nonhighway vehicle or salvage vehicle in the same manner and under the same conditions prescribed by K.S.A. 8-135, and amendments thereto, for the application for and assignment of a certificate of title thereunder. Upon the assignment thereof, the purchaser shall make application for a new nonhighway certificate of title or salvage title, as provided in subsection (c) or (d).

(2) Except as provided in subsection (b) of K.S.A. 8-199, and amendments thereto, if a certificate of title has been issued for any such vehicle under the provisions of K.S.A. 8-135, and amendments thereto, the owner of such nonhighway vehicle or salvage vehicle may surrender such certificate of title to the division of vehicles and make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, or the owner may obtain from the county treasurer's office a form prescribed by the division of vehicles and, upon proper execution thereof, may assign the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached to the purchaser of the nonhighway vehicle or salvage vehicle. Upon receipt of the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached, the purchaser shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(3) If the transferor is not a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for the vehicle under this section or a certificate of title was not required under K.S.A. 8-135, and amendments thereto, the transferor shall make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, as provided in this section, except that in addition thereto, the division shall require a bill of sale or such transferor's affidavit, with at least one other corroborating affidavit, that such transferor is the owner of such nonhighway vehicle or salvage vehicle. If the division is satisfied that the transferor is the owner, the division shall issue a nonhighway certificate of title or salvage title, whichever is applicable, for such vehicle, and the transferor shall assign the same to the purchaser, who shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(c) Every purchaser of a nonhighway vehicle ~~or salvage vehicle~~, whether assigned a nonhighway certificate of title, ~~salvage title~~ or a regular certificate of title with the form specified in paragraph (2) of subsection (b) attached, shall make application to the county treasurer of the county in which such person resides for a new nonhighway certificate of title ~~or salvage title~~, whichever is applicable, in the same manner and under the same conditions as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under subsection (c)(1) of K.S.A. 8-135, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for a nonhighway certificate of title ~~or salvage title~~ is made is a nonhighway vehicle ~~or salvage vehicle, which ever is applicable~~, and other provisions the director deems necessary. Each application for a nonhighway certificate of title ~~or salvage title~~ shall be accompanied by a fee of \$10, and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of \$2.

(d) (1) *Except as otherwise provided by this section, the owner of a vehicle that meets the definition of a salvage vehicle shall apply for a salvage title before the ownership of the motor vehicle is transferred. In no event shall such application be made more than 30 days after the vehicle is determined to be a salvage vehicle.*

(2) *Every insurance company, which pursuant to a damage settlement, acquires ownership of a vehicle that has incurred damage requiring the vehicle to be designated a salvage vehicle, shall apply for a salvage title within 30 days after the title is assigned and delivered by the owner to the insurance company, with all liens released.*

(3) Every insurance company which makes a damage settlement for a vehicle that has incurred damage requiring such vehicle to be designated a salvage vehicle, but does not acquire ownership of the vehicle, shall notify the vehicle owner of the owner's obligation to apply for a salvage title for the motor vehicle, and shall notify the division of this fact in accordance with procedures established by the division. The vehicle owner shall apply for a salvage title within 30 days after being notified by the insurance company.

(4) The lessee of any vehicle which incurs damage requiring the vehicle to be designated a salvage vehicle shall notify the lessor of this fact within 30 days of the determination that the vehicle is a salvage vehicle.

(5) The lessor of any motor vehicle which has incurred damage requiring the vehicle to be titled as a salvage vehicle, shall apply for a salvage title within 30 days after being notified of this fact by the lessee.

(6) Every person acquiring ownership of a motor vehicle that meets the definition of a salvage vehicle, for which a salvage title has not been issued, shall apply for the required document prior to any further transfer of such vehicle, but in no event, more than 30 days after ownership is acquired.

(7) Every purchaser of a salvage vehicle, whether assigned a salvage title or a regular certificate of title with the form specified in paragraph (2) of subsection (b) attached, shall make application to the county treasurer of the county in which such person resides for a new salvage title, in the same manner and under the same condition as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under subsection (c)(1) of K.S.A. 8-135, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for salvage title is made is a salvage vehicle, and other provisions the director deems necessary. Each application for a salvage title shall be accompanied by a fee of \$10 and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of \$2.

(8) Failure to apply for a salvage title as provided by this subsection shall be a class C nonperson misdemeanor.

~~(e)~~ (e) A nonhighway certificate of title or salvage title shall be in form and color as prescribed by the director of vehicles. A nonhighway certificate of title or salvage title shall indicate clearly and distinctly on its face that it is issued for a nonhighway vehicle or salvage vehicle, whichever is applicable. A nonhighway certificate of title or salvage title shall contain substantially the same information as required on a certificate of title issued under K.S.A. 8-135, and amendments thereto, and other information the director deems necessary.

~~(f)~~ (f) (1) A nonhighway certificate of title or salvage title may be transferred in the same manner and under the same conditions as prescribed by K.S.A. 8-135, and amendments thereto, for the transfer of a certificate of title, except as otherwise provided in this section. A nonhighway certificate of title or salvage title may be assigned and transferred only while the vehicle remains a nonhighway vehicle or salvage vehicle.

(2) Upon transfer or sale of a nonhighway vehicle in a condition which will allow the registration of such vehicle, the owner shall assign the nonhighway certificate of title to the purchaser, and the purchaser shall obtain a certificate of title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No regular certificate of title shall be issued for a vehicle for which there has been issued a nonhighway certificate of title until there has been compliance with K.S.A. 8-116a, and amendments thereto.

(3) (A) Upon transfer or sale of a salvage vehicle which has been rebuilt or restored or is otherwise in a condition which will allow the registration of such vehicle, the owner shall assign the salvage title to the purchaser, and the purchaser shall obtain a rebuilt salvage title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No rebuilt salvage title shall be issued for a vehicle for which there has been issued a salvage title until there has been compliance with K.S.A. 8-116a, and amendments thereto, and the notice required in paragraph (3)(B) of this subsection has been attached to such vehicle.

(B) As part of the inspection for a rebuilt salvage title conducted under K.S.A. 8-116a, and amendments thereto, the Kansas highway patrol shall attach a notice affixed to the left

door frame of the rebuilt salvage vehicle indicating the vehicle identification number of such vehicle and that such vehicle is a rebuilt salvage vehicle. In addition to any fee allowed under K.S.A. 8-116a, and amendments thereto, a fee of \$5 shall be collected from the owner of such vehicle requesting the inspection for the notice required under this paragraph. All moneys received under this paragraph shall be remitted in accordance with subsection (e) of K.S.A. 8-116a, and amendments thereto.

(C) Failure to apply for a rebuilt salvage title as provided by this paragraph shall be a class C nonperson misdemeanor.

(f) (g) The owner of a salvage vehicle which has been issued a salvage title and has been assembled, reconstructed, reconstituted or restored or otherwise placed in an operable condition may make application to the county treasurer for a permit to operate such vehicle on the highways of this state over the most direct route from the place such salvage vehicle is located to a specified location named on the permit and to return to the original location. No such permit shall be issued for any vehicle unless the owner has motor vehicle liability insurance coverage or an approved self-insurance plan under K.S.A. 40-3104, and amendments thereto. Such permit shall be on a form furnished by the director of vehicles and shall state the date the vehicle is to be taken to the other location, the name of the insurer, as defined in K.S.A. 40-3103, and amendments thereto, and the policy number or a statement that the vehicle is included in a self-insurance plan approved by the commissioner of insurance, a statement attesting to the correctness of the information concerning financial security, the vehicle identification number and a description of the vehicle. Such permit shall be signed by the owner of the vehicle. Permits issued under this subsection (f) (g) shall be prepared in triplicate. One copy shall be carried in the vehicle for which it is issued and shall be displayed so that it is visible from the rear of the vehicle. The second copy shall be retained by the county treasurer, and the third copy shall be forwarded by the county treasurer to the division of vehicles. The fee for such permit shall be \$1 which shall be retained by the county treasurer, who shall annually forward 25% of all such fees collected to the division of vehicles to reimburse the division for administrative expenses, and shall deposit the remainder in a special fund for expenses of issuing such permits.

(g) (h) A nonhighway vehicle or salvage vehicle for which a nonhighway certificate of title or salvage title has been issued pursuant to this section shall not be deemed a motor vehicle for the purposes of K.S.A. 40-3101 to 40-3121, inclusive, and amendments thereto, except when such vehicle is being operated pursuant to subsection (f) (g). Any person who knowingly makes a false statement concerning financial security in obtaining a permit pursuant to subsection (f) (g), or who fails to obtain a permit when required by law to do so is guilty of a class C misdemeanor.

(h) (i) Any person who, on July 1, 1996, is the owner of an all-terrain vehicle, as defined in K.S.A. 8-126, and amendments thereto, shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such all-terrain vehicle, unless the person transfers an interest in such all-terrain vehicle.

New Sec. 4. It shall be unlawful for any person to remove, obliterate or alter any notice required to be attached to a rebuilt salvage vehicle, as defined under K.S.A. 8-197, and amendments thereto, in accordance with paragraph (3) of subsection (f) of K.S.A. 8-198, and amendments thereto. A violation of this section shall be a class A nonperson misdemeanor.

Sec. 5. K.S.A. 8-197 and K.S.A. 2003 Supp. 8-198 are hereby repealed.”;

By renumbering the remaining section accordingly;

In the title, in line 13, by striking “iso-”; by striking all in line 14 and inserting “salvage vehicles; amending K.S.A. 8-197 and K.S.A. 2003 Supp. 8-198”; in line 15, by striking all following “existing”; in line 16, by striking all preceding the period and inserting “sections”;

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

LES DONOVAN
LARRY D. SALMANS
GRETA GOODWIN

Conferees on part of Senate

GARY K. HAYZLETT
 JOHN FABER
 MARGARET E. LONG
Conferees on part of House

On motion of Rep. Hayzlett, the conference committee report on **HB 2745** was adopted.
 On roll call, the vote was: Yeas 118; Nays 6; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Reardon, Reitz, Ruff, Sawyer, Schwab, Schwartz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Shultz, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Edmonds, Howell, Hutchins, Klein, Rehorn, Ward.

Present but not voting: None.

Absent or not voting: D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2805**, submits the following report:

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

On page 1, in line 20, by striking all after "act"; by striking all in line 21; in line 22, by striking all preceding the period; in line 24, after "act" by inserting "or the duly elected sheriff as determined by the qualified electors at the election at which a proposition to consolidate law enforcement in such county is adopted";

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

BARBARA P. ALLEN
 MARK TADDIKEN
 DONALD BETTS, JR.
Conferees on part of Senate

JENE VICKREY
 RALPH OSTMEYER
 ROGER E. TOELKES
Conferees on part of House

On motion of Rep. Vickrey, the conference committee report on **HB 2805** was adopted.
 On roll call, the vote was: Yeas 92; Nays 32; Present but not voting: 0; Absent or not voting: 1.

Yeas: Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Campbell, Carlin, Carter, Compton, Cox, Craft, Crow, Davis, DeCastro, Decker, Dreher, Faust-Goudeau, Flaharty, Freeborn, Gatewood, Gilbert, Goering, Goico, Gordon, Hill, Holland, Holmes, Horst, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Krehbiel, Landwehr, Larkin, Light, M. Long, Loyd, Mason, Mays, McCreary, McLeland, Merrick, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pottorff, Powell, Reardon, Rehorn, Reitz, Ruff, Sawyer, Schwab,

Schwartz, B. Sharp, S. Sharp, Shriver, Shultz, Sloan, Storm, Swenson, Tafanelli, Toelkes, Vickrey, Ward, Wilk, J. Williams, Winn, Yoder, Yonally.

Nays: Aurand, Dahl, Dillmore, Edmonds, Faber, Feuerborn, Flora, Grant, Hayzlett, Henderson, Henry, Howell, Huy, Klein, Kuether, Lane, Loganbill, Long-Mast, McKinney, F. Miller, J. Miller, Minor, Pauls, Phelps, Powers, Scoggins-Waite, Showalter, Siegfried, Svaty, Thimesch, Thull, Wilson.

Present but not voting: None.

Absent or not voting: D. Williams.

CHANGE OF CONFEREES

Speaker Mays announced the appointment of Rep. Thull as a member of the conference committee on **HB 2624** to replace Rep. Toelkes.

Also, the appointment of Rep. Dillmore as a member of the conference committee on **HB 2549** to replace Rep. B. Sharp.

REPORT ON ENGROSSED BILLS

HB 2154; S. Sub. for HB 2352; S. Sub. for HB 2391; HB 2555, HB 2604; Sub. HB 2698; S. Sub. for Sub. HB 2713; S. Sub. for HB 2912 reported correctly engrossed April 5, 2004.

HB 2573, HB 2760, HB 2798 reported correctly re-engrossed April 5, 2004.

Also, **Sub. HB 2516; HB 2593, HB 2871** reported correctly engrossed April 6, 2004.

Sub. HB 2143; HB 2293, HB 2622, HB 2652, HB 2813 reported correctly re-engrossed April 6, 2004.

Also, **S. Sub. for Sub. HB 2647** reported correctly re-engrossed April 7, 2004.

REPORT ON ENROLLED BILLS

HB 2798 reported correctly enrolled, properly signed and presented to the governor on April 8, 2004.

Also, **HB 2154; S. Sub. for HB 2352; HB 2531, HB 2555, HB 2573, HB 2600, HB 2604, HB 2622, HB 2675; Sub. HB 2698; S. Sub. for Sub. HB 2713; HB 2731, HB 2760, HB 2793, HB 2833; S. Sub. for HB 2912** reported correctly enrolled, properly signed and presented to the governor on April 9, 2004.

Also, **Sub. HB 2143; HB 2293; S. Sub. for HB 2391; Sub. HB 2516; S. Sub. for Sub. HB 2593; S. Sub. for Sub. HB 2647; HB 2652, HB 2748, HB 2813, HB 2871, HB 2902** reported correctly enrolled, properly signed and presented to the governor on April 12, 2004.

On motion of Rep. Aurand, the House adjourned until 11:00 a.m., Thursday, April 29, 2004.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

