

Journal of the House

SIXTIETH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Saturday, May 1, 2004, 9:30 a.m.

The House met pursuant to adjournment with Speaker Mays in the chair.
The roll was called with 122 members present.
Reps. Campbell, Faber and D. Williams were excused on excused absence by the Speaker.
Present later: Rep. Faber.
Rep. Novascone was excused later in the day on excused absence by the Speaker.

Prayer by Chaplain Chamberlain:

Almighty God, thank you for the life-giving rain that continues to fall upon us. Thank you for your grace which never ceases.

As we gather this day, O Lord, fill each person with the energy to accomplish the tasks that have been set before them. Give voice to those with the wisdom and insight to lead your people in the way pleasing in your sight. Give perseverance to those whose strength is diminished. Give patience to those who just want to get on with it. Remind each one standing here today of the high calling of their office and of the responsibilities that they have accepted. May that calling and those responsibilities be a yoke that is easy to bear because it is made light by your providence.

Lord of beginnings, bless the ending toward which these your servants strive. Amen.

The Pledge of Allegiance was led by Rep. B. Sharp.

MESSAGES FROM THE SENATE

The Senate adopts conference committee report on **SB 67**.

The Senate adopts conference committee report on **SB 141**.

The Senate adopts conference committee report on **H. Sub. for SB 272**.

The Senate adopts conference committee report on **HB 2347**.

The Senate adopts conference committee report on **S. Sub. for HB 2404**.

The Senate adopts conference committee report on **HB 2658**.

Also, announcing passage of **HB 2937**, as amended by **S. Sub. for HB 2937**.

The Senate nonconcurrs in House amendments to **H. Sub. for SB 536**, requests a conference and has appointed Senators Morris, Adkins and Downey as conferees on the part of the Senate.

The Senate adopts the conference committee report to agree to disagree on **HCR 5005** and has appointed Senators Vratil, Schmidt and Goodwin as second conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2585** and has appointed Senators Schmidt, Huelskamp and Lee as conferees on the part of the Senate.

Announcing rejection of **HB 2053**.

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 536**.

Speaker Mays thereupon appointed Reps. Neufeld, Shultz and Feuerborn as conferees on the part of the House.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

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, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, 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: Campbell, Faber, D. Williams.

The bill passed.

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, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, 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, Tafaneli, Thimesch, Thull, Toelkes, Vickrey, Ward, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: None.

Present but not voting: None.

Absent or not voting: Campbell, Faber, D. Williams.

The bill passed.

HB 2949, An act reconciling amendments to certain statutes; amending K.S.A. 2003 Supp. 8-170, 22-2401a, 72-6431, 74-4811f, 74-5602, 74-8017, 79-213, 79-3271, 79-3425c, K.S.A. 2003 Supp. 2-1205, as amended by section 1 of 2004 House Bill No. 2622, K.S.A. 8-1102, as amended by section 1 of 2004 Substitute for Senate Bill No. 380, K.S.A. 2003 Supp. 19-101a, as amended by section 20 of 2004 House Substitute for Substitute for Senate Bill No. 153, K.S.A. 2003 Supp. 58-3062, as amended by section 1 of 2004 Senate Bill No. 534, K.S.A. 2003 Supp. 60-2001, as amended by section 6 of 2004 House Bill No. 2293, K.S.A. 65-468, as amended by section 1 of 2004 House Bill No. 2760, K.S.A. 2003 Supp. 65-2891, as amended by section 5 of 2004 House Bill No. 2813, K.S.A. 2003 Supp. 83-302, as amended by section 20 of 2004 House Bill No. 2622, and K.S.A. 2003 Supp. 83-402, as amended by section 21 of 2004 House Bill No. 2622, and repealing the existing sections; also repealing K.S.A. 2003 Supp. 8-170a, 72-6431b, 72-6431c, 74-4911h, 74-8017a, 79-201y, 79-213c, 79-2977a, 79-3271a, 79-3271b, K.S.A. 2003 Supp. 2-1205, as amended by section 188 of 2004 Senate Bill No. 524, K.S.A. 2003 Supp. 2-2906, as amended by section 57 of 2004 Senate Bill No. 524, K.S.A. 8-1102, as amended by section 1 of 2004 House Bill No. 2633, K.S.A. 2003 Supp. 19-101a, as amended by section 5 of 2004 Senate Bill No. 461, K.S.A. 2003 Supp. 22-2401a, as amended by section 1 of 2004 House Substitute for Senate Bill No. 9, K.S.A. 2003 Supp. 22-2401a, as amended by section 6 of 2004 House Substitute for Senate Bill No. 136, K.S.A. 2003 Supp. 58-3062, as amended by section 3 of 2004 Senate Bill No. 404, K.S.A. 2003 Supp. 60-2001, as amended by section 5 of 2004 Senate Bill No. 297, K.S.A. 65-468, as amended by section 3 of 2004 House Bill No. 2813, K.S.A. 2003 Supp. 65-2891, as amended by section 11 of 2004 House Bill No. 2737, K.S.A. 2003 Supp. 74-5602, as amended by section 8 of 2004 House Substitute for Senate Bill No. 136, K.S.A. 2003 Supp. 74-5602, as amended by section 1 of 2004 Senate Bill No. 400, K.S.A. 2003 Supp. 79-3425c, as amended by section 174 of 2004 House Bill No. 2675, K.S.A. 2003 Supp. 79-3425c, as amended by section 134 of 2004 Senate Bill No. 524, K.S.A. 2003 Supp. 79-34,147, as amended by section 176 of 2004 House Bill No. 2675, K.S.A. 82a-734, as amended by section 145 of 2004 Senate Bill No. 524, K.S.A. 2003 Supp. 83-302, as amended by section 186 of 2004 Senate Bill No. 524, and K.S.A. 2003 Supp. 83-402, as amended by section 187 of 2004 Senate Bill No. 524, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, 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: Campbell, Faber, D. Williams.

The bill passed.

H. Sub. for SB 12, An act relating to assessments on certain hospital providers and health maintenance organizations; amending sections 4, 8, 11 and 13 of 2004 Senate Substitute for House Bill No. 2912 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, 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: Campbell, Faber, D. Williams.

The substitute bill passed.

H. Sub. for SB 395, An act concerning commerce; acquisition of property; eminent domain; relating to special obligation bonds; redevelopment districts; payment sources; implementation by rules and regulations; amending K.S.A. 12-1771, as amended by section 26 of 2004 Senate Substitute for Substitute for House Bill No. 2647, and 12-1773 and K.S.A. 2003 Supp. 12-1774, 12-1780b and 12-1780c and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 100; Nays 22; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Carter, Compton, Cox, Craft, Crow, Davis, DeCastro, Decker, Dillmore, Dreher, Faust-Goudeau, Feuerborn, Flaharty, Flora, Gatewood, Gilbert, Goering, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Huff, Humerickhouse, Huntington, Jack, Kassebaum, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Loganbill, M. Long, Loyd, Mason, Mays, McCreary, McKinney, McLeland, J. Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neighbor, Newton, Novascone, O'Malley, O'Neal, Owens, Pauls, Phelps, Pottorff, 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: Barbieri-Lightner, Dahl, Edmonds, Freeborn, Goico, Howell, Huebert, Hutchins, Huy, D. Johnson, E. Johnson, Kauffman, Long-Mast, Merrick, F. Miller, Neufeld, Osborne, Ostmeyer, Patterson, Powell, Powers, Ward.

Present but not voting: None.

Absent or not voting: Campbell, Faber, D. Williams.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. SPEAKER: Here is another perfect example of the absurdity of the destination based so-called stream lined sales tax in Kansas.

In part this bill is designed to exempt wealthy commercial entities from the onerous sales tax provisions. It increases inequities, rewards the wealthy and continues to "sock it to" the small businesses.

The U.S. Senate just passed a four year extension of the internet tax moratorium. How long are we going to continue the burdensome regressive destination based sales tax in Kansas? I vote no on **H. Sub. for SB 395**.—DONALD L. DAHL

On motion of Rep. Aurand, the House recessed until 11:00 a.m.

LATE MORNING SESSION

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

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **HCR 5005**, submits the following report:

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

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of House

WILLIAM G. MASON
DAN WILLIAMS
RICK REHORN
Conferees on part of Senate

On motion of Rep. Mason to adopt the conference committee report on **HCR 5005**, roll call was demanded. On roll call, the vote was: Yeas 84; Nays 38; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballou, Barbieri-Lightner, Bethell, Boyer, Brunk, Burgess, Burroughs, Carter, Compton, Cox, Dahl, DeCastro, Decker, Edmonds, Feuerborn, Freeborn, Gatewood, Goering, Goico, Gordon, Grant, Hayzlett, Henry, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kauffman, Krehbiel, Landwehr, Lane, Larkin, Light, M. Long, Long-Mast, Loyd, Mason, Mays, McCreary, McKinney, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Myers, Neighbor, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Patterson, Pauls, Phelps, Pottorff, Powell, Powers, Ruff, Schwab, Schwartz, Shultz, Siegfried, Svaty, Swenson, Tafanelli, Thimesch, Thull, Vickrey, Ward, Wilk, J. Williams, Yoder.

Nays: Ballard, Beggs, Carlin, Craft, Crow, Davis, Dillmore, Dreher, Faust-Goudeau, Flaharty, Flora, Gilbert, Henderson, Hill, Huntington, Kassebaum, Kirk, Klein, Kuether, Loganbill, Minor, O'Malley, Owens, Reardon, Rehorn, Reitz, Sawyer, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Sloan, Storm, Toelkes, Wilson, Winn, Yonally.

Present but not voting: None.

Absent or not voting: Campbell, Faber, D. Williams.

The motion prevailed.

Speaker Mays thereupon appointed Reps. Mason, O'Neal and Rehorn 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 317, SB 432, SB 552; S. Sub. for HB 2404; S. Sub. for HB 2937.**

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Decker, the House nonconcurrred in Senate amendments to **S. Sub. for HB 2937** and asked for a conference.

Speaker Mays thereupon appointed Reps. Decker, O'Neal and Reardon as conferees on the part of the House.

On motion of Rep. Loyd, the House concurred in Senate amendments to **HB 2569**, An act concerning children's advocacy centers; prescribing certain standards; regarding requirements for training of staff.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, 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: Campbell, Faber, D. Williams.

On motion of Rep. D. Johnson to concur in Senate amendments to **HB 2585**, the motion did not prevail and the bill remains in conference.

On roll call, the vote was: Yeas 31; Nays 90; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballou, Beggs, Bethell, Carter, Compton, Decker, Dreher, Edmonds, Feuerborn, Freeborn, D. Johnson, Kassebaum, Krehbiel, Landwehr, Light, Loyd, Mason, Mays, McLeland, J. Miller, Neufeld, Novascone, O'Malley, Owens, Pottorff, Reitz, Schwartz, Shultz, Wilk, Yoder.

Nays: Ballard, Barbieri-Lightner, Boyer, Brunk, Burgess, Burroughs, Carlin, Cox, Craft, Crow, Dahl, Davis, DeCastro, Dillmore, Faust-Goudeau, Flaharty, Flora, Gatewood, Gilbert, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, E. Johnson, Kauffman, Kirk, Klein, Kuether, Lane, Larkin, Loganbill, M. Long, Long-Mast, McCreary, McKinney, Merrick, F. Miller, Minor, Jim Morrison, Judy Morrison, Neighbor, Newton, O'Neal, Osborne, Ostmeyer, Patterson, Pauls, Phelps, Powell, Powers, Reardon, Rehorn, Ruff, Sawyer, Schwab, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Siegfried, Sloan, Storm, Svaty, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Vickrey, Ward, J. Williams, Wilson, Winn, Yonally.

Present but not voting: None.

Absent or not voting: Campbell, Faber, Myers, D. Williams.

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 99, in line 20, before "county" by inserting "location listed by section, range, township and";

On page 100, in line 42, before "county" by inserting "location listed by section, range, township and";

On page 102, in line 38, before "county" by inserting "location listed by section, range, township and";

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 ~~(or 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.

On roll call, the vote was: Yeas 115; Nays 7; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dreher, Faust-Goudeau, Feuerborn, Flaharty, 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, Krehbiel, Kuether, Landwehr, Lane, 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, Tafaneli, Thimesch, Thull, Toelkes, Vickrey, Wilk, J. Williams, Wilson, Winn, Yoder, Yonally.

Nays: Ballou, Dillmore, Edmonds, Flora, Klein, Larkin, Ward.

Present but not voting: None.

Absent or not voting: Campbell, Faber, D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 317**, 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 9, by striking all in lines 10 through 38 and inserting the following:

"Sec. 5. K.S.A. 2003 Supp. 60-729 is hereby amended to read as follows: 60-729. (a) Garnishment is a procedure whereby the wages, money or intangible property of a person can be seized or attached pursuant to an order of garnishment issued by the court under the conditions set forth in the order.

(b) *Except as otherwise provided by law, no garnishment shall be issued under article 7 of Chapter 60 of the Kansas Statutes Annotated, and amendments thereto, without payment of the appropriate docket fee of \$5. The docket fee shall be paid to the clerk of the district court for remittance to the state treasurer. The state treasurer shall deposit and credit the fees to the state general fund.*

Sec. 6. K.S.A. 2003 Supp. 61-3502 is hereby amended to read as follows: 61-3502. (a) Garnishment is a procedure whereby the wages, money or intangible property of a person can be seized or attached pursuant to an order of garnishment issued by the court under the conditions set forth in the order.

(b) *Except as otherwise provided by law, no garnishment shall be issued under article 35 of chapter 61 of the Kansas Statutes Annotated, and amendments thereto, without payment of the appropriate docket fee of \$5. The docket fee shall be paid to the clerk of the district court for remittance to the state treasurer. The state treasurer shall deposit and credit the fees to the state general fund.*

Sec. 7. K.S.A. 2003 Supp. 61-2703 is hereby amended to read as follows: 61-2703. As used in this act:

(a) "Small claim" means a claim for the recovery of money or personal property, where the amount claimed or the value of the property sought does not exceed ~~\$1,800~~ \$4,000, exclusive of interest, costs and any damages awarded pursuant to K.S.A. 60-2610 and amendments thereto. In actions of replevin, the verified petition fixing the value of the property shall be determinative of the value of the property for jurisdictional purposes. A small claim shall not include:

(1) An assigned claim;

(2) a claim based on an obligation or indebtedness allegedly owed to a person other than the person filing the claim, where the person filing the claim is not a full-time employee or officer of the person to whom the obligation or indebtedness is allegedly owed; or

(3) a claim obtained through subrogation.

(b) "Person" means an individual, partnership, limited liability company, corporation, fiduciary, joint venture, society, organization or other association of persons.

Sec. 8. K.S.A. 61-2706 is hereby amended to read as follows: 61-2706. (a) Whenever a plaintiff demands judgment beyond the scope of the small claims jurisdiction of the court, the court shall either: (1) Dismiss the action without prejudice at the cost of the plaintiff; (2) allow the plaintiff to amend the plaintiff's pleadings and service of process to bring the demand for judgment within the scope of the court's small claims jurisdiction and thereby waive the right to recover any excess, assessing the costs accrued to the plaintiff; or (3) if the plaintiff's demand for judgment is within the scope of the court's general jurisdiction, allow the plaintiff to amend the plaintiff's pleadings and service of process so as to commence an action in such court in compliance with K.S.A. 61-1703 and amendments thereto, assessing the costs accrued to the plaintiff.

(b) Whenever a defendant asserts a claim beyond the scope of the court's small claims jurisdiction, but within the scope of the court's general jurisdiction, the court may determine the validity of defendant's entire claim. If the court refuses to determine the entirety of any such claim, the court must allow the defendant to: (1) Make no demand for judgment and reserve the right to pursue the defendant's entire claim in a court of competent jurisdiction; (2) make demand for judgment of that portion of the claim not exceeding ~~\$1,500~~ \$4,000, plus interest, costs and any damages awarded pursuant to K.S.A. 60-2610 and amendments thereto, and reserve the right to bring an action in a court of competent jurisdiction for any amount in excess thereof; or (3) make demand for judgment of that portion of the claim not exceeding ~~\$1,500~~ \$4,000, plus interest, costs and any damages awarded pursuant to K.S.A. 60-2610 and amendments thereto, and waive the right to recover any excess.

Sec. 9. K.S.A. 2003 Supp. 61-2713 is hereby amended to read as follows: 61-2713. (a) The petition shall be in substantially the following form:

In the District Court of _____ County, Kansas.

Plaintiff

vs.

No. _____

Defendant

PETITION PURSUANT TO CHAPTER 61 OF THE
KANSAS STATUTES ANNOTATED

Statement of claim:

I, _____, having read the instruction below, hereby assert the following claim against _____, defendant:

Demand for judgment:

Based on the claim stated above, judgment is demanded against defendant as follows:

1. Payment of \$_____, plus interest, costs and any damages awarded under K.S.A. 60-2610 and amendments thereto.

2. Recovery of the following described personal property, plus costs: _____. This property has an estimated value of \$_____.

Instructions to plaintiff:

1. State the claim you have against the defendant in the space provided. Be clear and concise.

2. Your total claim against defendant may not exceed ~~\$1,500~~ \$4,000, not including interest, costs and any damages awarded under K.S.A. 60-2610 and amendments thereto. If you are seeking the recovery of personal property, the value of that property shall be based on your estimate of its value under oath.

3. You must be present in person at the hearing in order to avoid default judgment against you on any claim defendant may have which arises out of the transaction or occurrence which is the subject to your claim against the defendant.

4. You must make demand for judgment in one or both of the spaces provided above.

5. Except as provided by law, neither you nor the defendant is permitted to appear with an attorney at the hearing.

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6. You may not file more than 10 small claims under the small claims procedure act in this court during any calendar year.

7. After completing this form, you must subscribe to the following oath:

I, _____, hereby swear that, to the best of my knowledge and belief, the foregoing claim asserted against the defendant (including the estimate of value of any property sought to be recovered) is a just and true statement, exclusive of any valid claim or defense which defendant may have.

[Signature] _____
Plaintiff

Subscribed and sworn to before me this _____ day of _____, ~~19~~ (year) _____.

[Signature] _____
Judge (clerk or notary)

(b) The summons shall be in substantially the following form:
In the District Court of _____ County, Kansas.

Plaintiff
vs.

No. _____

Defendant

SUMMONS
(Small Claims Procedure)

To the above-named defendant:

You are hereby notified that the above-named plaintiff has filed a claim against you under the small claims procedure of this court. The statement of plaintiff's claim and demand for judgment against you are set forth in the petition which is served upon you with this summons.

A trial will be held on this matter at _____ o'clock _____m. on the _____ day of _____, ~~19~~ (year) at _____.
(Place of hearing and address)

You must be present in person at the trial or a judgment by default will be entered against you. Except as otherwise provided by law, neither you nor the plaintiff is permitted to appear with an attorney.

If your defense is supported by witnesses, books, receipts or other papers, you should bring them with you at the time of the hearing. If you wish to have witnesses summoned, see the judge or clerk of the court at once for assistance.

If you admit the claim, but desire additional time to satisfy plaintiff's demands, you must be present at the trial and explain the circumstances to the court.

If you have a claim against the plaintiff, which arises out of the transaction or occurrence which is the subject of plaintiff's claim and your claim does not exceed ~~\$1,500~~ \$4,000, you must complete the form for "Defendant's Claim," which accompanies this summons, and return it to the judge or clerk of the court on or before the time set for the trial. If your claim against plaintiff exceeds ~~\$1,500~~ \$4,000, you may complete and return the form for "Defendant's Claim" on or before the time set for trial.

RETURN ON SERVICE OF SUMMONS

I hereby certify that I have served this summons:

(1) *Personal service.* By delivering a copy of the summons and a copy of the petition to each of the following defendants on the dates indicated:
_____, ~~19~~ (year) _____
_____, ~~19~~ (year) _____

(2) *Residence service.* By leaving a copy of the summons and a copy of the petition at the usual place of residence of each of the following defendants on the dates indicated:
_____, ~~19~~ (year) _____

_____, ~~19~~ (year) _____

(3) *No service.* The following defendants were not found in this county:
Dated: _____

(Signature and Title of Officer)

(c) *The defendant's claim shall be in substantially the following form:*
In the District Court of _____ County, Kansas.

Plaintiff
vs.
Defendant

No. _____

DEFENDANT'S CLAIM

Instructions:

1. As stated in the summons, if you have a claim against the plaintiff which arises out of the transaction or occurrence which is the subject of plaintiff's claim and your claim does not exceed ~~\$1,500~~ \$4,000, you must state your claim in the space provided below. If your claim against the plaintiff exceeds ~~\$1,500~~ \$4,000, you may state your claim in the space provided below. In determining whether or not your claim against the plaintiff exceeds ~~\$1,500~~ \$4,000, do not include interest, costs and any damages under K.S.A. 60-2610 and amendments thereto, but do include the value of any personal property sought to be recovered as determined by your estimate of its value under oath.

2. Be clear and concise in stating your claim.

3. If the value of your claim exceeds ~~\$1,500~~ \$4,000 (not including interest, costs and any damages awarded under K.S.A. 60-2610 and amendments thereto, but including the value of any personal property sought to be recovered, as determined by your estimate of its value under oath), the court must decide whether you may pursue your entire claim or only that portion not exceeding ~~\$1,500~~ \$4,000.

4. If your claim exceeds ~~\$1,500~~ \$4,000 and the court determines that you may not pursue the entire claim at the hearing, you have three alternatives: (1) Make no demand for judgment and reserve the right to pursue your entire claim in a court of competent jurisdiction; (2) make demand for judgment of that portion of your claim which does not exceed ~~\$1,500~~ \$4,000 and reserve the right to bring an action in a court of competent jurisdiction for any amount in excess thereof; or (3) make demand for judgment of that portion of your claim which does not exceed ~~\$1,500~~ \$4,000 and waive your right to recover any excess.

5. When completed, this form must be filed with the judge or the clerk of the court on or before the time stated in the summons for the trial.

Statement of claim:

I, _____ having read the instructions above, assert the following claim against _____, plaintiff:

Demand for judgment:

Based on the claim stated above, judgment is demanded against plaintiff as follows:

1. Payment of \$ _____, plus interest, costs and any damages awarded under K.S.A. 60-2610 and amendments thereto.

2. Recovery of the following described personal property, plus costs:
This property has an estimated value of \$ _____.

I, _____, hereby swear that, to the best of my knowledge and belief, the above claim asserted against the plaintiff (including the estimate of value of any property sought to be recovered) is a just and true statement.

[Signature] _____
Plaintiff

Subscribed and sworn to before me this _____ day of _____, ~~19~~ (year) _____.

[Signature] _____
Judge (clerk or notary)

New Sec. 10. (a) As used in this section:

(1) "Home inspection" means a noninvasive visual examination of the mechanical, electrical or plumbing systems or the structural and essential components of a residential dwelling or any portion thereof designed to identify material defects in those systems and components and performed for a fee in connection with or preparation for a proposed or possible residential real estate transfer. The term also includes any consultation regarding the property that is represented to be a home inspection or that is described by any similar term. The term does not include an examination of a single system or component of a residential dwelling such as, for example, its electrical or plumbing system or its roof. The term also does not include an examination that is limited to inspection for or of one or more of the following: Wood destroying insects, underground tanks and wells, septic systems; swimming pools and spas, alarm systems, air and water quality, tennis courts and playground equipment, pollutants, toxic chemicals and environmental hazards.

(2) "Home inspection report" means a written report on the results of a home inspection.

(3) "Home inspector" means an individual who performs a home inspection.

(b) Any clause or provision in an agreement or contract issued by a home inspector for a home inspection report which contains language limiting or disclaiming the home inspector's liability as to any system or component of the residential dwelling covered by such report is hereby declared to be against public policy and void.

(c) Nothing contained herein shall restrict or prohibit a home inspector from limiting the scope of the home inspection report or the ability of the home inspector to identify those portions of the home which could not be inspected, and therefore are not included in the home inspection report.

(d) Any cause of action authorized by this section shall be commenced within one year after the date the agreement or contract is signed by both parties.;

And by renumbering the remaining sections accordingly;

Also on page 9, in line 39, by striking "45-222" and inserting "61-2706"; also in line 39, after the comma by inserting "60-729,;" in line 40, by striking "and" and inserting ", 61-2703, 61-2713,;" also in line 40, after "61-3101" by inserting "and 61-3502";

On page 1, in the title, in line 16, by striking "attor-"; in line 17, by striking "ney fees" and inserting "docket fees; concerning small claims; home inspector's liability,;" also in line 17, by striking "45-222" and inserting "61-2706"; also in line 17, after the comma by inserting "60-729,;" in line 18, by striking "and" where it appears the first time and inserting ", 61-2703, 61-2713,;" also in line 18, after "61-3101" by inserting "and 61-3502";

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

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

On motion of Rep. O'Neal to adopt the conference committee report on **SB 317**, the motion did not prevail.

On roll call, the vote was: Yeas 52; Nays 71; Present but not voting: 0; Absent or not voting: 2.

Yeas: Ballard, Beggs, Bethell, Boyer, Burroughs, Compton, Dahl, Davis, Decker, Dreher, Faust-Goudeau, Feuerborn, Flaharty, Freeborn, Gatewood, Gilbert, Holmes, Horst, Huff, Jack, D. Johnson, E. Johnson, Kassebaum, Klein, Krehbiel, Light, Loyd, Mason, Mays, McKinney, Minor, Neighbor, O'Neal, Osborne, Owens, Patterson, Pauls, Phelps, Pottorff, Reardon, Rehorn, Reitz, Scoggins-Waite, B. Sharp, S. Sharp, Showalter, Shriver, Sloan, Svaty, Vickrey, Ward, Yonally.

Nays: Aurand, Ballou, Barbieri-Lightner, Brunk, Burgess, Carlin, Carter, Cox, Craft, Crow, DeCastro, Dillmore, Edmonds, Faber, Flora, Goering, Goico, Gordon, Grant, Hayzlett, Henderson, Henry, Hill, Holland, Howell, Huebert, Humerickhouse, Huntington,

Hutchins, Huy, Kauffman, Kirk, Kuether, Landwehr, Lane, Larkin, Loganbill, M. Long, Long-Mast, McCreary, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Malley, Ostmeyer, Powell, Powers, Ruff, Sawyer, Schwab, Schwartz, Shultz, Siegfried, Storm, Swenson, Tafanelli, Thimesch, Thull, Toelkes, Wilk, J. Williams, Wilson, Winn, Yoder.

Present but not voting: None.

Absent or not voting: Campbell, D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 432**, 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 8, in line 33, by striking all after "(e)"; by striking all in lines 34 through 37 and inserting "The agency, agency head and any officer or employee of the agency shall be absolutely immune from civil liability:

(1) For the report made in accordance with subsection (d); and

(2) when responding in writing to a written request concerning a current or former officer from a prospective law enforcement agency of that officer for the report made in accordance with subsection (d) and for the disclosure of such report.";

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 432** was adopted.

Call of the House was demanded.

On roll call, the vote was: Yeas 119; Nays 3; Present but not voting: 0; Absent or not voting: 3.

Yeas: Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, 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, 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: Dillmore, Flora, Lane.

Present but not voting: None.

Absent or not voting: Aurand, Campbell, D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2347**, 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 50, in line 39, by striking “two years” and inserting “one year”;
 On page 57, in line 6, by striking “25,000” and inserting “\$25,000”;
 On page 87, by striking all in lines 28 through 43;
 On page 88, by striking all in lines 1 through 30;
 And by renumbering the remaining sections accordingly;
 On page 90, in line 1, by striking “17-1264, 17-1265.”; in line 2, by striking “, 74-8229”;
 On page 1, in the title, in line 14, by striking “, 74-8229”;
 And your committee on conference recommends the adoption of this report.

JOHN VRATIL
 EDWARD W. PUGH
 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 2347** was adopted.
 On roll call, the vote was: Yeas 118; Nays 5; Present but not voting: 0; Absent or not voting: 2.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, Carlin, Carter, Compton, Cox, Craft, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, 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, 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, Ward, Wilk, J. Williams, Wilson, Yoder, Yonally.

Nays: Crow, Flora, Klein, Rehorn, Winn.
 Present but not voting: None.
 Absent or not voting: Campbell, D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **SENATE Substitute for HB 2404**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2404, as follows:

On page 2, in line 13, after “The” by inserting “division shall assign a”; also in line 13, by striking “assigned”; in line 14, by striking “may be the applicant’s social security number”; in line 15, by striking “if the applicant so requests in writing”;

On page 4, in line 37, after “The” by inserting “division shall assign a”; also in line 37, by striking “as-”; in line 38, by striking “signed”; also in line 38, by striking “may be the applicant’s social security”; in line 39, by striking “number”; also in line 39, by striking “if the applicant so requests”; in line 40, by striking “in writing”;

On page 5, after line 21 by inserting the following:

“Sec. 4. K.S.A. 2003 Supp. 8-243 is hereby amended to read as follows: 8-243. (a) Upon payment of the required fee, the division shall issue to every applicant qualifying under the

provisions of this act the driver's license as applied for by the applicant. Such license shall bear the class or classes of motor vehicles which the licensee is entitled to drive, a distinguishing number assigned to the licensee, ~~which, if the licensee so requests in writing, may be the licensee's social security number;~~ the name, date of birth, residence address, and a brief description of the licensee, a colored photograph of the licensee, a facsimile of the signature of the licensee or a space upon which the licensee shall write such licensee's usual signature with pen and ink immediately upon receipt of the license and the statement provided for in subsection (b). No driver's license shall be valid until it has been signed by the licensee. All drivers' licenses issued to persons under the age of 21 years shall be readily distinguishable from licenses issued to persons age 21 years or older. In addition, all drivers' licenses issued to persons under the age of 18 years shall also be readily distinguishable from licenses issued to persons age 18 years or older. On and after July 1, 2004, the secretary of revenue shall implement a vertical format to make drivers' licenses issued to persons under the age of 21 more readily distinguishable. Except as otherwise provided, on or after July 1, 2004, no driver's license issued by the division shall be valid until a colored photograph of such licensee has been taken and verified before being placed on the driver's license. The secretary of revenue shall prescribe a fee of not more than \$4 and upon payment of such fee the division shall cause a colored photograph of such applicant to be placed on the driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A. 8-246, and amendments thereto, for issuance of a new license, the division shall issue to such licensee a new license containing a colored photograph of such licensee. A driver's license which does not contain a colored photograph of the licensee as required may be issued to persons exempted from such requirement. Any such license shall be valid for the purposes of the motor vehicle drivers' license act and the division shall set forth upon such driver's license the words "valid without photo." Any person who is outside the state and for whom the division provides for renewal of the driver's license by mail is exempt from the requirement to have a colored photograph of such person placed on such person's driver's license. Any person belonging to a religious organization which has a basic objection to having their picture taken may sign a statement to that effect and such person shall then be exempt from the picture requirements of this section.

(b) All Kansas drivers' licenses issued to any person 16 years of age or older shall contain a form which provides a statement for making a gift of all or any part of the body of the licensee in accordance with the uniform anatomical gift act, except as otherwise provided by this subsection. The statement to be effective shall be signed by the licensee in the presence of two witnesses who shall sign the statement in the presence of the donor. The gift becomes effective upon the death of the donor. Delivery of the license during the donor's lifetime is not necessary to make a valid gift. Any valid gift statement executed prior to July 1, 1994, shall remain effective until invalidated. The word "Donor" shall be placed on the front of a licensee's driver's license, indicating that the statement for making an anatomical gift under this subsection has been executed by such licensee.

(c) Any person who is deaf or hard of hearing may request that the division issue to such person a driver's license which is readily distinguishable from drivers' licenses issued to other drivers and upon such request the division shall issue such license. Drivers' licenses issued to persons who are deaf or hard of hearing and under the age of 21 years shall be readily distinguishable from drivers' licenses issued to persons who are deaf or hard of hearing and 21 years of age or older.

Sec. 5. K.S.A. 2003 Supp. 8-2,135 is hereby amended to read as follows: 8-2,135. (a) The commercial driver's license shall be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamper proof. It shall include, but not be limited to, the following information:

- (1) The requirements set out in K.S.A. 8-243, and amendments thereto;
- (2) ~~the person's social security number or any~~ a number or identifier deemed appropriate by the state licensing authority;
- (3) the class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restriction;
- (4) the name of this state; and
- (5) the dates between which the license is valid.

(b) Commercial drivers' licenses issued pursuant to K.S.A. 8-234b, and amendments thereto, may be issued with the following endorsements or restrictions; and the holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles, except motorcycles and vehicles which require an endorsement, unless the proper endorsement appears on the license;

- (1) "H"—authorizes the driver to drive a vehicle transporting hazardous materials;
- (2) "L"—restricts the driver to vehicles not equipped with airbrakes;
- (3) "T"—authorizes driving double and triple trailers;
- (4) "P"—authorizes driving vehicles carrying passengers;
- (5) "N"—authorizes driving tank vehicles;
- (6) "X"—represents a combination of hazardous materials and tank vehicle endorsements;
- (7) "S"—authorizes driving school buses.

(c) Before issuing a commercial driver's license, the division must obtain driving record information through the commercial driver license information system, the national driver register and from each state in which the person has been licensed.

(d) Within 10 days after issuing a commercial driver's license, the division shall notify the commercial driver license information system of that fact, providing all information required to ensure identification of the person.

(e) All original licenses issued after April 1, 1992, shall expire on the fourth anniversary of the date of birth of the licensee which is nearest the date of application. All renewals thereof shall expire on every fourth anniversary of the date of birth of the licensee. No driver's license shall expire in the same calendar year in which the original license or renewal license is issued, except that if the foregoing provisions of this section shall require the issuance of a renewal license or an original license for a period of less than six calendar months, the license issued to the applicant shall expire at midnight on every fourth anniversary of the date of birth of the applicant. At least 30 days prior to the expiration of a person's license, the division shall mail a notice of expiration or renewal application to such person at the address shown on the license.

(f) When applying for renewal of a commercial driver's license, the applicant must complete the test required in subsection (e) of K.S.A. 8-247, and amendments thereto, and the application form required by subsection (b) of K.S.A. 8-2,134, and amendments thereto, providing updated information and required certifications and if the applicant wishes to retain a hazardous materials endorsement, the applicant must take and pass the test for such endorsement.

New Sec. 6. (a) Beginning July 1, 2004, or upon final determination by the transportation security administration of the date for implementation of the requirements of 49 C.F.R. 1572, whichever is later, the division shall not issue, renew, upgrade or transfer a hazardous materials endorsement for a commercial driver's license to any person authorizing that person to operate a commercial motor vehicle transporting a hazardous material in commerce unless the individual complies with the requirements of 49 C.F.R. 1572.

(b) At least 180 days before the expiration date of a commercial driver's license or hazardous materials endorsement, the division shall notify the holder of a hazardous materials endorsement that the person must pass a transportation security administration security screening process, 49 C.F.R. 1572, as part of any application for renewal of the hazardous materials endorsement. The notice must advise the person that, in order to expedite the security screening process, the person should file a renewal application as soon as possible, but not later than 90 days before the date of expiration of the endorsement. Any person who does not successfully complete the security screening process, shall not be issued a hazardous materials endorsement.

(c) An individual must submit fingerprints, in a form and manner specified by the division, when such individual applies to obtain, renew or transfer a hazardous materials endorsement for a commercial driver's license. A fee not to exceed \$100 shall be charged to such individual for collecting the fingerprints and generating the individual's criminal history.

(d) The divisions shall revoke a person's hazardous materials endorsement if the person does not meet the standards for security threat assessment under 49 C.F.R. 1572.

(e) For the purpose of this section "revoke" means the process by which the division cancels, suspends, withdraws, annuls or disqualifies a hazardous material endorsement.

(f) The provisions of this section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.”;

And by renumbering the remaining sections accordingly;

Also on page 5, in line 22, after “8-240” by inserting “, 8-243, 8-2,135”;

On page 1, in the title, in line 9, after “licenses” by inserting “, permits”; in line 11, after the semicolon by inserting “relating to hazardous material endorsements.”; in line 12, after “8-240” by inserting “, 8-243, 8-2,135”;

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

JOHN VRATIL
EDWARD W. PUGH
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 **S. Sub. for HB 2404** was adopted.

On roll call, the vote was: Yeas 103; Nays 20; Present but not voting: 0; Absent or not voting: 2.

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

Nays: Ballou, Crow, Dillmore, Faber, Feuerborn, Flora, Hayzlett, Howell, Huy, Klein, Landwehr, Lane, McKinney, F. Miller, Novascone, Osborne, Rehorn, Schwab, Siegfried, Ward.

Present but not voting: None.

Absent or not voting: Campbell, D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2658**, 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 2, by striking all in lines 24 through 43;

On page 3, by striking all in line 1;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 15, by striking all after “panel”; in line 16, by striking all before the period;

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

SUSAN WAGLE
JIM BARNETT
Conferees on part of Senate

MAY 1, 2004

2023

JIM MORRISON
WILLA DECASTRO
NANCY A. KIRK

Conferees on part of House

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

On roll call, the vote was: Yeas 120; Nays 2; Present but not voting: 0; Absent or not voting: 3.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, 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, 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, Yoder, Yonally.

Nays: Wilson, Winn.

Present but not voting: None.

Absent or not voting: Campbell, Mason, D. Williams.

MESSAGE FROM THE SENATE

The Senate nonconcurs in House amendments to **H. Sub. for SB 395**, requests a conference and has appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

The Senate adopts conference committee report on **HB 2880**.

The President announced the appointment of Senator Hensley as a member of the conference committee on **HB 2027** to replace Senator Downey.

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 395**.

Speaker Mays thereupon appointed Reps. Wilk, Gordon and Burroughs as conferees on the part of the House.

CHANGE OF CONFEREES

Speaker Mays announced the appointment of Rep. O'Neal as a member of the conference committee on **HB 2027** to replace Rep. Beggs.

Also, the appointment of Rep. O'Neal as a member of the conference committee on **SB 393** to replace Rep. Beggs.

Also, the appointment of Rep. Schwartz as a member of the conference committee **Sub. SB 296** to replace Rep. Powell.

On motion of Rep. Aurand, the House recessed until 2:00 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker pro tem Ballou in the chair.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolutions were introduced and read by title:

HOUSE RESOLUTION No. 6037—

By Representatives McKinney, Mays, Aurand, Wilson, 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, 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 congratulating and commending Melvin G. Minor.

WHEREAS, Melvin G. Minor of Stafford will retire from the House of Representatives after representing the 114th District for 14 years; and

WHEREAS, Representative Minor has served on the Committees on Appropriations, Agriculture, Public Safety and the Joint Committee on State Building Construction; and

WHEREAS, Representative Minor was born and reared in Reno County but has been a resident of Stafford County for 41 years. He has been a teacher in public schools for 15 years; and

WHEREAS, Melvin and his wife, Carolyn, operate a farm near Stafford. They are the parents of two children and have three grandchildren: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend Melvin G. Minor for the years of public service he has given to the state of Kansas; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to Representative Minor.

HOUSE RESOLUTION No. 6038—

By Representatives McKinney, Mays, Aurand, Wilson, 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, 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 congratulating and commending William J. Reardon.

WHEREAS, William J. "Bill" Reardon, who has represented the 37th representative district since 1975, is retiring from politics at the end of the current term; and

WHEREAS, Bill Reardon is the longest serving member of the current House of Representatives. His many leadership positions include Speaker Pro Tem, Assistant Minority Leader and Minority Whip; Chairperson, Committee on Federal and State Affairs and

Committee on Education; and ranking minority member of the Committees on Appropriations and Education; and

WHEREAS, Bill Reardon teaches government and political science at Bishop Miege High School in Roeland Park. He cofounded the girls basketball program at Bishop Miege in 1976 and coached 12 state class 5A championships. He continues to coach a summer basketball clinic and is the cofounder and manager of a summer clinic for grade school girls and boys. He also has officiated softball games for youth and adult leagues; and

WHEREAS, Bill and his wife, Kathleen, are the parents of three daughters, Ann, Colleen and Kerry, and have three grandchildren: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate and commend William J. Reardon for 34 years of public service in the Kansas House of Representatives and for his years of devotion to our children, both in the classroom and on the playground; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide an enrolled copy of this resolution to Representative Reardon.

HOUSE RESOLUTION No. 6039—

By Representatives Sawyer, 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, 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, Wilson, Winn, Yoder and Yonally

A RESOLUTION in memory of Richard C. "Pete" Loux.

WHEREAS, Richard C. "Pete" Loux, 74, of Wichita died April 21; and

WHEREAS, Pete Loux served in the Kansas House of Representatives from 1965 to 1975 including seven years as minority leader. He is believed to be the first certified public accountant to serve in the state legislature. He served on the Committees on Assessment and Taxation, Insurance, Ways and Means and Calendar and Printing. Subsequent to his legislative career he was appointed to and served as chairperson of the Kansas Corporation Commission, served as chairperson of the Kansas Commission on Governmental Standards and Conduct and on the Governor's Task Force for Ethics Reform; and

WHEREAS, Mr. Loux was a long-time advocate for people with disabilities and volunteered to serve with numerous organizations and agencies supporting these causes; and

WHEREAS, Mr. Loux is survived by his son, Richard, and six daughters, Chrysa, Marilyn, Joan, Judy, Mary Jane and Paula; 15 grandchildren and five great-grandchildren: 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 Richard C. "Pete" Loux and express our appreciation for the service he gave to the state; and

Be it further resolved: That the Chief Clerk of the House of Representatives provide seven enrolled copies of this resolution to Richard Loux, 8807 Thompson Dr., De Soto, KS 66018.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2880**, 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 41, by striking "the justices" and inserting "a majority";
- On page 2, in line 29, before "(2)" by inserting "and"; in line 30, by striking "; and (3) the"; by striking all in line 31; in line 32, by striking "and responsibilities";
- On page 3, in line 25, by striking "(a)";
- On page 4, by striking all in lines 28 through 36;
- On page 5, in line 6, by striking all after "justice"; in line 7, by striking all before the period;

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
DOUGLAS PATTERSON
Conferees on part of House

On motion of Rep. O'Neal, the conference committee report on **HB 2880** was adopted.

On roll call, the vote was: Yeas 82; Nays 38; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Carlin, Carter, Compton, Cox, Craft, Crow, Dahl, Davis, DeCastro, Decker, Dillmore, Dreher, Flora, Freeborn, Goering, Goico, Hayzlett, Hill, Holmes, Horst, Howell, Huff, Humerickhouse, Huntington, Hutchins, Huy, Jack, D. Johnson, E. Johnson, Kassebaum, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Larkin, Light, Loganbill, Loyd, Mason, McCreary, McLeland, Merrick, F. Miller, J. Miller, Jim Morrison, Myers, Neighbor, Neufeld, Newton, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pottorff, Rehorn, Reitz, Schwab, Schwartz, Scoggins-Waite, S. Sharp, Sloan, Storm, Swenson, Tafanelli, Vickrey, Ward, Wilk, Yoder, Yonally.

Nays: Burroughs, Edmonds, Faber, Faust-Goudeau, Feuerborn, Flaharty, Gatewood, Gilbert, Gordon, Grant, Henderson, Henry, Holland, Huebert, Lane, M. Long, Long-Mast, Mays, McKinney, Minor, Judy Morrison, Pauls, Phelps, Reardon, Ruff, Sawyer, B. Sharp, Showalter, Shriver, Shultz, Siegfried, Svaty, Thimesch, Thull, Toelkes, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Campbell, Novascone, Powell, Powers, D. Williams.

MESSAGE FROM THE SENATE

The Senate concurs in House amendments to **H. Sub. for SB 12**.

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

The Senate adopts conference committee report on **HB 2758**.

The Senate not adopts the conference committee report on **HB 2027**, requests a new conference committee be appointed and has appointed Senators Umbarger, Vratil and Hensley as second conferees on the part of the Senate.

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 **HB 2027**.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Aurand, the House acceded to the request of the Senate for a conference on **HB 2027**.

Speaker pro tem Ballou thereupon appointed Reps. Decker, O'Neal and Reardon as second conferees on the part of the House.

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

Speaker pro tem Ballou called the House to order.

MESSAGE FROM THE SENATE

The Senate accedes to the request of the House for a conference on **S. Sub. for HB 2937** and has appointed Senators Umbarger, Vratil and Hensley as conferees on the part of the Senate.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Decker to concur in Senate amendments to **S. Sub. for HB 2937**, the motion did not prevail and the bill remains in conference.

On roll call, the vote was: Yeas 16; Nays 104; Present but not voting: 0; Absent or not voting: 5.

Yeas: Carter, Dahl, Goering, Hayzlett, Huebert, E. Johnson, Mason, McCreary, McLeland, Merrick, Neufeld, Osborne, Ostmeyer, Schwab, Schwartz, Siegfried.

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

Present but not voting: None.

Absent or not voting: Campbell, Novascone, Powell, Powers, D. Williams.

CHANGE OF CONFEREES

Speaker pro tem Ballou announced the appointment of Rep. Dahl as a member of the conference committee on **H. Sub. for SB 2** to replace Rep. D. Williams.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 552**, submits the following report:

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

On page 1, by striking all in lines 14 through 25 and inserting the following:

"Section 1. K.S.A. 2003 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas Supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, *except documents relating to the appointment of persons to fill a vacancy in an elected office.*

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, *except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.*

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, *except that as provided herein.* The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action, *criminal investigation or prosecution;*

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;

or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting;

or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to

another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, *et seq.*, and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 *et seq.* and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

~~(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20 and amendments thereto.~~

~~(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.~~

~~(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.~~

~~(41)~~ (38) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

~~(42)~~ (39) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

~~(43)~~ (40) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

~~(44)~~ (41) The amount of franchise tax paid to the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

~~(45)~~ (42) Records the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; or (B) sewer or wastewater treatment systems, facilities or equipment. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping.

~~(46)~~ Any information or material received by the secretary of state pursuant to subsection (b) of K.S.A. 2003 Supp. 44-1518, and amendments thereto, except when such information is required to be submitted in an application pursuant to K.S.A. 2003 Supp. 44-1520, and amendments thereto.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

Sec. 2. K.S.A. 45-222 is hereby amended to read as follows: 45-222. (a) The district court of any county in which public records are located shall have jurisdiction to enforce the purposes of this act with respect to such records, by injunction, mandamus or other appropriate order, in an action brought by any person, the attorney general or a county or district attorney.

(b) In any action hereunder, the court shall determine the matter *de novo*. The court on its own motion, or on motion of either party, may view the records in controversy *in camera* before reaching a decision.

(c) In any action hereunder, the court shall award ~~attorney fees~~ costs and a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs to the plaintiff if the court finds that the agency's denial of access to the public record was not in good faith and without a reasonable basis in fact or law. The award shall be assessed against the public agency that the court determines to be responsible for the violation.

(d) In any action hereunder in which the defendant is the prevailing party, the court shall award to the defendant ~~attorney fees~~ *costs and a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs* if the court finds that the plaintiff maintained the action not in good faith and without a reasonable basis in fact or law.

(e) Except as otherwise provided by law, proceedings arising under this section shall be assigned for hearing and trial at the earliest practicable date.

(f) *The provisions of subsections (c) and (d) concerning the awarding of costs and attorney fees for services rendered during an appeal shall apply only to actions which are based on causes of action accruing on or after July 1, 2004.*”;

And by renumbering the remaining sections accordingly;

Also on page 1, in line 26, by striking all after “K.S.A.” and inserting “45-222 and K.S.A. 2003 Supp. 45-221 are hereby repealed.”;

Also on page 1, in the title, in line 10, by striking “crime victims funds” and inserting “Kansas open records act; relating to records not required to be open; attorney fees and costs”; also in line 10, by striking “74-7336” and inserting “45-222 and K.S.A. 2003 Supp. 45-221”; in line 11, by striking “section” and inserting “sections”;

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

DOUGLAS PATTERSON

JEFF GOERING

JANICE L. PAULS

Conferees on part of House

JOHN VRATIL

DEREK SCHMIDT

GRETA GOODWIN

Conferees on part of Senate

On motion of Rep. Patterson, the conference committee report on **SB 552** was adopted.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Aurand, Ballard, Ballou, Barbieri-Lightner, Beggs, Bethell, Boyer, Brunk, Burgess, Burroughs, 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, O'Malley, O'Neal, Osborne, Ostmeyer, Owens, Patterson, Pauls, Phelps, Pottorff, 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: Campbell, Novascone, Powell, Powers, D. Williams.

CHANGE OF CONFEREES

Speaker pro tem Ballou announced the appointment of Rep. Tafanelli as a member of the conference committee on **H. Sub. for SB 147** to replace Rep. Huff.

Also, the appointment of Reps. Edmonds, Tafanelli and Larkin as members of the conference committee on **HB 2375** to replace Reps. Dahl, Novascone and Ruff.

REPORT ON ENGROSSED BILLS

S. Sub. for HB 2886 reported correctly re-engrossed May 1, 2004.

On motion of Rep. Aurand, the House adjourned until 1:30 p.m., Monday, May 3, 2004.

CHARLENE SWANSON, *Journal Clerk.*

JANET E. JONES, *Chief Clerk.*

