

Journal of the Senate

FIFTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 26, 2004—9:30 a.m.

The Senate was called to order by President Dave Kerr.

The roll was called with forty senators present.

President Kerr introduced as guest chaplain, Father Mike Mullen, Pastor, St. Patrick's Catholic Church, Kansas City, Kansas, who delivered the invocation:

God of wisdom, God of love, we acknowledge your presence and guidance in our daily lives. We turn to you at every moment so that we can live in your light. You reveal to us the dignity in our own hearts. We are made in your image and likeness. You open our eyes to see your goodness in our brothers and sisters and to serve especially those most in need.

On this 26th day of March, as we ponder the issues and decisions before us, let us be mindful of the common good of all the people of our State. Direct us to affirm human life at every stage of its development from conception to natural death. Strengthen us as we foster family life, as we affirm husbands and wives in holy marriage, as we assure that all our children grow up with opportunity for meaningful lives. Fill our hearts with the spirit of cooperation so that we can direct our many talents to creative programs and solutions that will benefit all our people.

We thank you, Lord, for these Senators and the Staff of this Senate for the commitment they make to public service. We ask you to bless our seventh grade students and their teachers and parents from St. Patrick School, Kansas City, Kansas and all our youth. May they aspire to serve their brothers and sisters worthily in public office. May our reward be to know that with your grace we have made a difference, that we live in a society and a State with greater peace and reconciliation, liberty and justice for all. This we pray through Christ our Lord, Amen

PRESENTATION OF PETITIONS

The following petition was presented, read and filed:

SP 15, by Senator Lana Oleen: A petition requesting more money for higher education, signed by Lindsay Bathel, of the Governmental Relations Committee, Student Governing Association, Kansas State, and 24 other Kansas State University students.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **HB 2937**.

Judiciary: **HB 2614**, **HB 2676**, **HB 2784**.

Ways and Means: **HB 2571**, **HB 2627**, **HB 2705**, **HB 2748**, **HB 2752**, **HB 2898**, **HB 2899**, **HB 2900**, **HB 2901**, **HB 2902**, **HB 2939**.

CHANGE OF REFERENCE

The President withdrew **SB 507**, **SB 544** from the Calendar under the heading of General Orders, and rereferred the bills to the Committee on Assessment and Taxation.

The President withdrew **SB 41** from the Calendar under the heading of General Orders, and rereferred the bill to the Committee on **Federal and State Affairs**.

The President withdrew **HB 2770**, **HB 2820** from the Calendar under the heading of General Orders, and referred the bills to the Committee on **Public Health and Welfare**.

The President withdrew **Sub HB 2145**; **HB 2605** from the Calendar under the heading of General Orders, and referred the bills to the Committee on **Ways and Means**.

MESSAGE FROM THE GOVERNOR

March 19, 2004

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

KATHLEEN SEBELIUS
Governor

Chairperson, Kansas Lottery Commission, Carole O. Gates pursuant to the authority vested in me by K.S.A. 74-8709, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, Kansas Lottery Commission, Michael Gayoso, Jr. pursuant to the authority vested in me by K.S.A. 74-8709, effective upon the date of confirmation by the Senate, to serve a term of four years.

March 23, 2004

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

KATHLEEN SEBELIUS
Governor

Member, State Board of Tax Appeals, Don R. Paxson pursuant to the authority vested in me by K.S.A. 74-2433, effective upon the date of confirmation by the Senate, to serve a term of four years.

Member, State Board of Tax Appeals, Thomas H. Slack pursuant to the authority vested in me by K.S.A. 74-2433, effective upon the date of confirmation by the Senate to serve a term of four years.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Vratil the Senate nonconcurrred in the House amendments to **House Sub for SB 9** and requested a conference committee be appointed.

The President appointed Senators Vratil, Oleen and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurrred in the House amendments to **SB 256** and requested a conference committee be appointed.

The President appointed Senators Vratil, Jackson and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurrred in the House amendments to **SB 299** and requested a conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Clark the Senate nonconcurrred in the House amendments to **SB 309** and requested a conference committee be appointed.

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

On motion of Senator Vratil the Senate nonconcurrred in the House amendments to **SB 317** and requested a conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Brownlee the Senate nonconcurrred in the House amendments to **SB 334** and requested a conference committee be appointed.

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

On motion of Senator Clark the Senate nonconcurrent in the House amendments to **SB 382** and requested a conference committee be appointed.

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

On motion of Senator Tyson the Senate nonconcurrent in the House amendments to **SB 396** and requested a conference committee be appointed.

The President appointed Senators Tyson, Taddiken and Lee as a conference committee on the part of the Senate.

On motion of Senator Brownlee the Senate nonconcurrent in the House amendments to **SB 440** and requested a conference committee be appointed.

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

On motion of Senator Schmidt the Senate nonconcurrent in the House amendments to **SB 472** and requested a conference committee be appointed.

The President appointed Senators Schmidt, Huelskamp and Downey as a conference committee on the part of the Senate.

On motion of Senator Schmidt the Senate nonconcurrent in the House amendments to **SB 524** and requested a conference committee be appointed.

The President appointed Senators Schmidt, Huelskamp and Downey as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2347**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Clark, the Senate acceded to the request of the House for a conference on **Sub for HB 2516**.

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

On motion of Senator Teichman, the Senate acceded to the request of the House for a conference on **HB 2545**.

The President appointed Senators Teichman, Barnett and Steineger as conferees on the part of the Senate.

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2573**.

The President appointed Senators Tyson, Taddiken and Lee as conferees on the part of the Senate.

On motion of Senator Teichman, the Senate acceded to the request of the House for a conference on **HB 2597**.

The President appointed Senators Teichman, Barnett and Steineger as conferees on the part of the Senate.

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2695**.

The President appointed Senators Donovan, Salmans and Goodwin as conferees on the part of the Senate.

On motion of Senator Barnett, the Senate acceded to the request of the House for a conference on **Sub for HB 2698**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Barnett, the Senate acceded to the request of the House for a conference on **HB 2760**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2795**.

The President appointed Senators Umbarger, Vratil, and Downey as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1836—

A RESOLUTION congratulating and commending Buhler High School.

WHEREAS, Buhler High School was awarded the 2003 Standard of Excellence by the Kansas Department of Education for the school's performance in the areas of social studies and reading; and

WHEREAS, The Standard of Excellence is awarded to a small number of schools whose percentage of students in the highest performance levels have met certain expectations defined by the Kansas education community. Four subject areas were tested in 2003: Mathematics, science, reading and social studies. Only 13.5% of Kansas high schools met the Standard of Excellence in mathematics, 15.6% in reading, 11.3% in science and 12% in social studies; and

WHEREAS, The attainment of the Standard of Excellence designation requires having a significant portion of the student body scoring at the advanced and exemplary levels. It is the mark of a school where student learning has been made a high priority; and

WHEREAS, This testing is done to determine whether and to what extent students have learned specific knowledge or skills. The purpose is to identify student strengths and weaknesses and plan appropriate instruction. Assessment totals contribute to an "Adequate Yearly Progress" goal that each school must make according to federal law; and

WHEREAS, For the 2003 testing at Buhler High School the administration created an assessment week. An academic assembly was held to recognize the previous year's achievements and to encourage the students to do well in the forthcoming tests. The regular class schedule was altered to accommodate the testing, homework was reduced; and 150 students, nearly one-quarter of the student body representing the eleventh grade class, participated in the testing; and

WHEREAS, The pride in this recognition can be equally shared by students, parents, teachers and administrators, in that each has a specific role in meeting the challenge to complete statewide academic tests, and to score at a level that commands statewide recognition; and

WHEREAS, Upon receipt of the results of the testing an all school celebration was held, the student rock band played and students enjoyed a picnic lunch in the football stadium. Exemplary certificates were given to 182 students at an academic pep assembly and congratulating comments were made by Senator Kerr and board of education representatives: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Buhler High School for its 2003 award of Standard of Excellence and urge further commitment to excellence in education; and

Be it further resolved: That the Secretary of the Senate provide four enrolled copies of this resolution to Michael Berblinger, Principal, Buhler High School, 611 N. Main, Buhler, KS 67522.

On emergency motion of Senator Kerr **SR 1836** was adopted unanimously.

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

SENATE RESOLUTION No. 1837—

A RESOLUTION congratulating and commending the Jetmore High School football team.

WHEREAS, The Jetmore High School football team won the 2003 Kansas State High School Activities Association 8 man division 1 State Football Championship with a thrilling 42 to 30 victory over Baileyville High School in the state championship game. The team defeated Victoria 46 to 0 in the regional game and South Barber 32 to 0 in the sub State game to get to the championship game; and

WHEREAS, The Jetmore High School “Longhorns” football team finished the season with a record of 13 wins and 0 losses. The team had 4400 yards of total offense compared to 1397 yards for its opponents and was unscored upon in the fourth quarter of any game; and

WHEREAS, The Jetmore High School football team was coached by head coach Kevin Ayers and assistant coaches Chad Cohoon and Russell Hunt. The players were Matt Balman, Nick Goebel, Randy Rudzik, Kade Sherrill, Ryan Haug, Brian Younker, Bryant Briggs, Mitchell Burns, Jeremy Appel, Chaz Beckwith, Matthew Burns, Ryan Charles, Jarrett Arnold, Rustin Wilson, Chris Bamberger, Adam Burks, Jacob Tarman, Daniel Cossman, Josh Burns, Beau Schauvliege, Lee Stairrett, Craig Ford and Nick Jacobs and the team managers were Roger Bach, Lee Webb and Kirk Hansen; and

WHEREAS, The members of this outstanding football team have received statewide recognition for their fine sportsmanship and athletic abilities; and

WHEREAS, The success of this team is due to excellent teamwork, strong competitive spirit and determination to win plus the enthusiastic support of the school’s administrators, the faculty, the students, the players’ parents and many area citizens: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the Jetmore High School football team and Coaches Ayers, Cohoon and Hunt be congratulated and commended for winning the 2003 Kansas State High School Activities Association 8 man division 1 State Football Championship in Kansas; and

Be it further resolved: That the Secretary of the Senate provide five enrolled copies of this resolution to Randall Jansonius, Superintendent, Jetmore High School, U.S.D. 227, P.O. Box 100, Jetmore, Kansas 67854.

On emergency motion of Senator Salmans **SR 1837** was adopted unanimously.

Senators Buntten, Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O’Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1838—

A RESOLUTION remembering Harry W. Colmery of Topeka on June 22 of each year as the father of the G.I. Bill of Rights.

WHEREAS, The life of Harry Colmery of Topeka was marked by service to his country and its citizens. He earned a degree in law in 1916 from the University of Pittsburgh and joined the Army Air Service during World War I, serving as a first lieutenant at a time when military aviation was in its infancy; and

WHEREAS, Veterans of military service in World War I formed a fraternal organization called the American Legion. Unfortunately, our World War I veterans had only their medals to show for their valor and received little assistance in returning to civilian life; and

WHEREAS, After World War I, Harry Colmery actively contributed to the growth of the newly formed American Legion. He held several offices in the Legion and was elected National Commander in 1936; and

WHEREAS, The United States faced the return from World War II of what was to become an active duty force of 15,000,000 soldiers, sailors, airmen and marines; and

WHEREAS, Harry Colmery, recognizing the potential effect of the return of such a large number of veterans to civilian life, set out to craft legislation seeking to ensure that these Americans who had fought for the democratic ideals of the nation and to preserve freedom would be able to fully participate in all of the opportunities the nation provided; and

WHEREAS, In December 1943, Harry Colmery scribbled on room stationery of the Mayflower Hotel in Washington, D.C. the initial draft of the legislation that became the Serviceman’s Readjustment Act of 1944, also known as the G.I. Bill of Rights. Virtually unmodified, it was signed into law by President Roosevelt on June 22, 1944; and

WHEREAS, The G.I. Bill of Rights changed America. More than 20 million veterans have benefited from this act and subsequent amendments. The original bill provided for subsistence payments for 52 weeks, four years of college tuition and books, and guaranteed loans for a home, farm or to start a business. It helped create our middle class and ensured

our economic and intellectual dominance for the rest of the 20th century. Virtually millions of Americans earned college degrees, and the nation's veterans reared their families in homes which they owned: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the body remembers on June 22 of each year Harry W. Colmery of Topeka as the author of the G.I. Bill of Rights; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Jack Quinlan, 3301 S.W. Van Buren, Topeka, KS 66611; the American Legion, Kansas State Headquarters, 1314-A S.W. Topeka Boulevard, Topeka, KS 66612; Mary Colmery, 2711 W. 67th Street, Mission Hills, KS 66208 and Harry Colmery, 480 S. Orange Road, Apt. 18, Pasadena, CA 91105.

On emergency motion of Senator Bunten **SR 1838** was adopted unanimously.

Senator Bunten introduced veterans, Chuck Yunker, Ralph Snyder, Harlan Hobbs, Jim Brier and Jack Quinlan, who were welcomed and honored with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **Substitute for HB 2594** be amended on page 1, by striking all in lines 13 through 43;

On page 2, by striking all in lines 1 through 7 and inserting the following:

"Section 1. K.S.A. 2003 Supp. 12-3402 is hereby amended to read as follows: 12-3402.

(a) It is the purpose of this act to promote, stimulate and develop the general welfare, economic development and prosperity of the state of Kansas by fostering the growth of intrastate and interstate commerce within the state; to promote the advancement and retention of ports within the state; to encourage and assist in the location of new business and industry in this state and the expansion, relocation or retention of existing business and industry when so doing will help maintain existing levels of commerce within the state or increase the movement of commodities, goods and products produced, manufactured or grown within or without the state through existing ports within the state or lead to the development of new ports within the state; and to promote the economic stability of the state by maintaining and providing employment opportunities, thus promoting the general welfare of the citizens of this state, by authorizing port authorities to be established in each city and in each county of the state.

A port authority shall be a public body corporate and politic which if established shall be known as the "port authority" of the city or of the county. Joint port authorities may be created under authority of this act by cooperative agreement executed by the governing bodies of any city or county or cities or counties. Such joint authorities formed by such cooperative agreement shall have all the powers and jurisdiction enumerated in this act. Such creation shall be by ordinance or resolution. Except for port authorities created prior to April 1, 1981, no port authority shall be created without approval of the legislature by concurrent resolution. *No port authority shall modify, amend or extend the port authority's official plan as originally adopted by the port authority to change the purpose for which it was created or alter the character of the work to be undertaken, as provided by K.S.A. 12-3406, and amendments thereto, without subsequent approval of the legislature by concurrent resolution.* The authority shall not transact any business or exercise powers hereunder, *including any business or actions related to such a modification, amendment or extension as provided in this subsection*, until the passage of a concurrent resolution by the legislature as hereinbefore provided.

A cooperative agreement creating a joint port authority may be amended by the governing bodies of the cities and counties which comprise such port authority. Any amendment to such a cooperative agreement, including amendments which allow other cities located within counties which are parties to the original agreement to join in such agreement, shall not require approval by the legislature.

No member of the authority shall serve as such who owns land, other than a residence, or represents in a fiduciary capacity or as agent any person who owns land surveyed or examined for port locations, except that this prohibition shall not prevent a user of a port facility from serving as a member of the authority.

A port authority may sue and be sued, plead and be impleaded, subject to the limitations and other provisions of the Kansas tort claims act. The exercise by such port authority of

the powers conferred upon it shall be deemed to be essential governmental functions of the creating city or county.

(b) Any city or county creating or participating in the creation of a port authority, before any taxes are levied shall submit the question of whether an annual tax levy may be made on the assessed taxable tangible property of such city, county, or a combination thereof, and the amount thereof to the electors of such city or county comprising such authority. If a majority of those voting on the question vote in favor of such tax levy, the same may be made for such purpose and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, and otherwise such tax levy shall not be made. If such tax levy is approved, the authority may expend funds not otherwise appropriated to defray the expense of surveys and examinations incidental to the purposes of the port authority and may expend funds for any of the purposes as set forth in K.S.A. 12-3406, and amendments thereto.

(c) Subject to making due provisions for payment and performance of its obligations, a port authority may be dissolved by the city or county, or combination thereof, comprising it. If the port authority is dissolved, the properties of the port authority shall be transferred to the subdivision comprising it, or, if comprised by more than one city or county, to the city or county comprising it in such manner as may be agreed upon by them. Obligations of the authority shall not be obligations of the state of Kansas, nor of any city or county which creates the authority, unless the obligations are specifically approved by a majority vote of the electors of such city or county voting on the issue. Notice of such election shall be published in a newspaper of general circulation in the county or counties once each week for two consecutive weeks. The first publication shall be not less than 21 days prior to such election. Such notice shall set forth the time and place of holding the election and the issue which the vote is to determine.

Sec. 2. K.S.A. 2003 Supp. 12-3406 is hereby amended to read as follows: 12-3406. A port authority established by K.S.A. 12-3402, and amendments thereto, *shall clearly state the purpose for which it is to be created and the character of the work to be undertaken as a part of its official plan; and shall have full power and authority to:*

(a) Purchase, acquire, construct, reconstruct, improve, equip, furnish, maintain, repair, enlarge, remodel, own, sell, lease, and operate docks, wharves, warehouses, piers, and other water-port facilities, airport facilities, terminal facilities, land transportation facilities, railroad facilities or industrial-use facilities within the area of its jurisdiction, as defined by K.S.A. 12-3405, and amendments thereto, consistent with the purpose of the port authority, which purpose is hereby declared to be for a public purpose;

(b) (1) borrow money from private financial institutions, any agency of the state of Kansas or of the United States of America or a private person or entity approved by the port authority, and to issue therefor such notes or other evidence of indebtedness as may be required and to mortgage, pledge, or otherwise encumber the assets of the authority as security therefor, or (2) issue bonds as provided in K.S.A. 12-3415, and amendments thereto;

(c) apply for, receive, and participate in any grants from the state of Kansas or from the United States of America;

(d) construct, straighten, deepen, and improve any canal, channel, river, stream, or other watercourse or way which may be necessary or proper in the development of the facilities of such port;

(e) purchase, acquire, own, maintain, furnish, improve, repair, enlarge, remodel, construct, reconstruct, equip, hold, sell, lease, or operate real or personal property for the authorized purposes of the port authority, which exercise of such authority is hereby declared to be for a public purpose;

(f) apply to the proper authorities of the United States government for a grant within the limits of the port authority either individually or in conjunction with a corporate instrumentality of this state and one or more states, or a bi-state compact or a not-for-profit corporation authorized to do business in this state and to establish, operate and maintain foreign trade zones pursuant to the foreign trade-zone act, 19 U.S.C.A. 81a to 81u, inclusive, as amended;

(g) exercise the right of eminent domain, if approved by a 2/3 vote of the governing body of the port authority, to appropriate any land, rights, rights-of-way, franchises, easements,

or other property, necessary or proper for the construction or the efficient operation of any facility of the port authority and included in an official plan, pursuant to the procedure provided by law, if funds equal to the appraised value of the property to be acquired as the result of such proceedings shall be on hand and available for such purposes. The port authority shall not exercise the right of eminent domain without first having received approval, by resolution, of the governing body of the city or county which created such port authority. If the port authority was created by two or more cities or counties, the port authority shall not exercise the right of eminent domain without first having received approval, by resolution, of the governing body of the city or county in which such property is located. If such property is located outside the boundaries of the port authority, such port authority shall not exercise the right of eminent domain without first having received approval, by resolution, of the governing body of the city if such property is located within the corporate limits of a city or from the board of county commissioners if such property is located within the unincorporated area of a county. A port authority shall not have the right of eminent domain to acquire a site for an industrial-use facility. *A port authority shall not have the right of eminent domain to acquire any land or site in Cowley county for which at least one of the purposes is a recreational-use purpose. If a port authority exercises the right of eminent domain to acquire any land or site in Cowley county, such land or site shall be used only for the public purpose stated in the port authority's original official plan and there shall be no private development on any such land or site for a period of 30 years after the acquisition of any such land or site. A port authority shall not exercise the right of eminent domain to acquire any land or site prior to a showing that all required state and federal permits to use or develop any such land or site in the manner specified in the port authority's official plan have been obtained.*

Nothing contained in K.S.A. 12-3401 to 12-3433, inclusive, and amendments thereto, shall authorize a port authority to take or disturb property or facilities belonging to any public corporation, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of such public corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, public utility, or common carrier for the payment of compensation, if any, at the sole cost of the port authority.

If any restoration or duplication proposed to be made hereunder shall involve a relocation of such property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

If any restoration or duplication made hereunder shall involve a relocation of such property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in subsection (c) of K.S.A. 12-3406, and amendments thereto, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility or common carrier.

Provisions for restoration, relocation, or duplication shall be described in detail in the plan specified in K.S.A. 12-3407, and amendments thereto;

(h) maintain such funds as it deems necessary;

(i) direct its agents or employees, when properly identified in writing, and after at least five days' written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done;

(j) sell, lease or convey real and personal property not needed for the operation of the port authority and grant easements of rights-of-way over property of the port authority; and

(k) promote, advertise, and publicize the port and its facilities; provide traffic information and rate information to shippers and shipping interests.

Sec. 3. K.S.A. 12-3408 is hereby amended to read as follows: 12-3408. The board of directors shall, from time to time after the adoption of an official plan, have the power to modify, amend or extend the same, provided that upon the making of any such modification, amendment or extension thereof, the board of directors shall cause notice to be given and shall conduct a hearing, all as provided in K.S.A. 12-3407, and amendments thereto, *except*

that the board of directors shall not have the power to modify, amend or extend the same to change or alter the character of the work to be undertaken by the port authority which would allow the use of any land or site acquired through the exercise of eminent domain to be used for a recreational-use purpose, nor to allow private development upon such acquired land or site for a period of 30 years from the date of acquisition of such land or site. The board shall not adopt any modification, amendment, or extension until the notice has been given and the hearing held as therein provided.

New Sec. 4. Cowley county may not exercise the right of eminent domain to appropriate any land or site for which at least one of the purposes is a recreational-use purpose or if such county exercises the right of eminent domain to appropriate land or site, there shall be no private development on such land or site for a period of 30 years after such appropriation of land. Cowley county may not exercise the right of eminent domain to appropriate any land or site prior to a showing that all required state and federal permits to use or develop such land or site in the manner specified by the county have been obtained.

Sec. 5. K.S.A. 2003 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 27174th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199 or K.S.A. 2003 Supp. 17-5909, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2003 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(33) *Counties may not exempt from or effect changes in section 4, and amendments thereto.*

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 6. K.S.A. 12-3408 and K.S.A. 2003 Supp. 12-3402, 12-3406 and 19-101a are hereby repealed.

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

On page 1, in the title, in line 9, by striking all before the period and inserting: “eminent domain; relating to acquisition of land for certain purposes by a port authority or county; amending K.S.A. 12-3408 and K.S.A. 2003 Supp. 12-3402, 12-3406 and 19-101a and repealing the existing sections”; and the substitute bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 536; SR 1829 reported correctly engrossed March 26, 2004.

REPORT ON ENROLLED BILLS

SB 479 reported correctly enrolled, properly signed and presented to the governor on March 26, 2004.

SR 1835 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 26, 2004.

MESSAGE FROM THE HOUSE

Announcing adoption of **SCR 1623**.

The House nonconcur in Senate amendments to **Substitute HB 2143**, requests a conference and has appointed Representatives Hayzlett, Faber and M. Long as conferees on the part of the House.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2352**, requests a conference and has appointed Representatives O’Neal, Patterson and Pauls as conferees on the part of the House.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2375**, requests a conference and has appointed Representatives Dahl, Novascone and Ruff as conferees on the part of the House.

The House nonconcur in Senate amendments to **Senate Substitute for HB 2404**, requests a conference and has appointed Representatives O’Neal, Patterson and Pauls as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2557**, requests a conference and has appointed Representatives Hutchins, Judy Morrison and Flaharty as conferees on the part of the House.

The House nonconcur in Senate amendments to **Senate Substitute for Substitute HB 2593**, requests a conference and has appointed Representatives D. Johnson, O’Neal and J. Miller as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2600**, requests a conference and has appointed Representatives Hutchins, Vickrey, Ostmeier and Toelkes as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2604**, requests a conference and has appointed Representatives Hutchins, DeCastro and Flaharty as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2606**, requests a conference and has appointed Representatives Myers, Powers and Sawyer as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2624**, requests a conference and has appointed Representatives Hayzlett, Faber and M. Long as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2641**, requests a conference and has appointed Representatives Myers, Powers and Sawyer as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2652**, requests a conference and has appointed Representatives Holmes, Krehbiel and Kuether as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2653**, requests a conference and has appointed Representatives Hutchins, Judy Morrison and Flaharty as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2712**, requests a conference and has appointed Representatives Vickrey, Ostmeier and Toelkes as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **Senate Substitute for Substitute HB 2713**, requests a conference and has appointed Representatives Wilk, Gordon and Burroughs as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2758**, requests a conference and has appointed Representatives Vickrey, Ostmeier and Toelkes as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2774**, requests a conference and has appointed Representatives Vickrey, Ostmeier and Toelkes as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2793**, requests a conference and has appointed Representatives Vickrey, Ostmeier and Toelkes as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2833**, requests a conference and has appointed Representatives Hayzlett, Faber and M. Long as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HCR 5005**, requests a conference and has appointed Representatives Myers, Powers and Sawyer as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 384**, and has appointed Representatives Hayzlett, Faber and M. Long as conferees on the part of the House.

The House announces the appointment of Rep. Dillmore to replace Rep. Ward as a conferee on **SB 197**.

Announcing passage of **HB 2540, HB 2559, HB 2662, Substitute HB 2783; HB 2890, HB 2891, HB 2897, HB 2910, HB 2919, HB 2925, HB 2938, HB 2940**.

Passage of **SB 373, SB 425, SB 426, SB 523, SB 528, SB 534, SB 557**.

Also, passage of **SB 28**, as amended by **House Substitute for SB 28; SB 29**, as amended, **SB 45**, as amended by **House Substitute for SB 45; SB 48**, as amended by **House Substitute for SB 48; SB 66**, as amended; **SB 106**, as amended, **SB 260**; as amended by **House Substitute SB 260; SB 280**, as amended by **House Substitute SB 280; Substitute SB 296**, as amended; **SB 304**, as amended; **Substitute SB 335**, as amended, **SB 336**, as amended by **House Substitute SB 336; SB 343**, as amended; **SB 363**, as amended, **SB 364**, as amended, **SB 422**, as amended, **SB 432**, as amended, **SB 461**, as amended, **SB 463**, as amended, **SB 487**, as amended, **SB 501**, as amended, **SB 511**, as amended, **SB 552**, as amended.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 9** and has appointed Representatives Mason, D. Williams and Rehorn as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 256** and has appointed Representatives O'Neal, Patterson and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 299** and has appointed Representatives Loyd, Owens and Ward as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 309** and has appointed Representatives Holmes, Krehbiel and Kuether as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 317** and has appointed Representatives O'Neal, Patterson and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 334** and has appointed Representatives Hutchins, Judy Morrison and Flaharty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 382** and has appointed Representatives Holmes, Krehbiel and Kuether as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 396** and has appointed Representatives Freeborn, Tafanelli and Flora as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 440** and has appointed Representatives Dahl, Novascone and Ruff as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 472** and has appointed Representatives Hayzlett, Faber and M. Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 524** and has appointed Representatives D. Johnson, Powell and Thimesch as conferees on the part of the House.

The House announces the appointment of Representative Wilson to replace Representative Sawyer as a conferee on **H Sub for SB 166**.

The House announces the appointment of Representative Svaty to replace Representative Sawyer as a conferee on **HB 2606**.

The House announces the appointment of Representative Svaty to replace Representative Sawyer as a conferee on **HB 2641**.

The House announces the appointment of Representative Wilson to replace Representative Sawyer as a conferee on **HCR 5005**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2540, HB 2559, HB 2662, Substitute HB 2783; HB 2890, HB 2891, HB 2897, HB 2910, HB 2919, HB 2925, HB 2938, HB 2940 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Vratil the Senate nonconcurrred in the House amendments to **SB 328** and requested a conference committee be appointed.

The President appointed Senators Vratil, Allen and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Allen the Senate nonconcurrred in the House amendments to **H Sub for SB 376** and requested a conference committee be appointed.

The President appointed Senators Allen, Buhler and Betts as a conference committee on the part of the Senate.

On motion of Senator Allen the Senate nonconcurrred in the House amendments to **SB 387** and requested a conference committee be appointed.

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

ORIGINAL MOTION

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2563**

The President appointed Senators Donovan, Salmans and Goodwin as conferees on the part of the Senate.

COMMITTEE OF THE WHOLE

On motion of Senator Oleen, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Emler in the chair.

Recommended **HB 2673, HB 2706, HB 2835** be passed.

The committee report on **SB 351** recommending a **Sub SB 351** be adopted, and the substitute bill be passed.

The committee report on **HB 2133** recommending a **S Sub for HB 2133** be adopted, and the substitute bill be passed.

The committee report on **HB 2391** recommending a **S Sub for HB 2391** be adopted, and the substitute bill be passed.

The committee report on **HB 2886** recommending a **S Sub for HB 2886** be adopted, and the substitute bill be passed.

The committee report on **HB 2912** recommending a **S Sub for HB 2912** be adopted, and the substitute bill be passed.

SR 1834 be adopted.

HB 2549, HB 2531, HB 2622, HB 2638, HB 2657, HB 2675, HB 2742, HB 2805, HB 2880, HB 2869 be amended by adoption of the committee amendments, and the bills be passed as amended.

HB 2539 be amended by adoption of the committee amendments, be further amended by motion of Senator Barone as amended by Senate Committee, on page 2, in line 23, after "low" by inserting "or moderate";

On page 3, after line 2 by inserting the following:

(t) "Home" means (1)(A) a one to four family residence;

(B) a condominium as defined in K.S.A. 58-3102, and amendments thereto;

(C) a manufactured home, as defined by K.S.A. 58-4202, and amendments thereto; or

(D) a mobile or modular home, as defined by K.S.A. 58-4202, and amendments thereto, having a permanent foundation which may not be removed intact from the land; and

(2) consists of the land and improvements thereon, which is either owned and occupied or is owned and is to be occupied by the mortgagor, and in the case of a two to four family residence one unit of the residence, shall be either owned and occupied or is owned and is to be occupied by the mortgagor.

(u) "Home mortgage loan" means a loan to a mortgagor evidenced by a promissory note and secured by a mortgage, purchased or financed by the authority made for the purpose of acquiring, constructing or improving a home.

(v) "Lending institution" means any bank, bank holding company, credit union, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker or other financial institution which customarily originates or services home mortgages.

(w) "Mortgagor" means any person of low or moderate income who has received or qualifies to receive a home mortgage loan on a home.

(x) "Persons of low or moderate income" means a person or family, consisting of one or more persons all of whom occupy or will occupy the home, whose aggregate gross income shall not exceed a maximum amount to be established by the authority, determined in accordance with appropriate criteria, rules and regulations and approved by the authority in connection with the implementation of a residential housing finance plan.

(y) "Residential housing finance plan" means a program implemented under this act by the authority to assist persons of low or moderate income in acquiring safe, decent and sanitary housing. Such plan shall include provisions allowing each lending institution with an office located within the state, an equal opportunity to participate in accordance with the standards and requirements established by the authority. Nothing in this section shall preclude the use of out-of-state master servicers.

Sec. 2. K.S.A. 74-8903 is hereby amended to read as follows: 74-8903. (a) There is hereby created, with such duties and powers as are hereinafter set forth to carry out the provisions of this act, a public body politic and corporate, with corporate succession, to be an inde-

pendent instrumentality of this state exercising essential public functions, and to be known as the Kansas development finance authority.

(b) *The provisions of the Kansas governmental operations accountability law apply to the Kansas development finance authority and the authority is subject to audit, review and evaluation under such law.*

(c) The board of directors of the authority shall consist of the ~~five~~ *seven* members to be appointed by the governor. *Two of such members shall be individuals with housing expertise, as determined by the governor.* Not less than ~~three~~ *four* voting members of such board shall be representative of the general public and not more than ~~three~~ *four* voting members shall be members of the same political party.

(d) Members appointed by the governor shall be subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, whose appointment is subject to confirmation shall exercise any power, duty or function as a member of the authority until confirmed by the senate. Except as provided by subsection (e), such members shall serve for terms of four years and until their successors are appointed and confirmed. Any vacancy in the board occurring other than by expiration of term shall be filled by the appointment of the governor, but for the unexpired term only.

(e) The terms of members who are appointed by the governor and who are serving on the authority on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

(f) The governor shall designate the chairperson and vice-chairperson of the board from the members of such board.

(g) The authority shall have such rights, powers and privileges and shall be subject to such duties as provided by this act.

(h) The governor shall appoint a president who shall serve at the will of the governor. The president shall appoint and employ such additional officers, accountants, financial advisors or experts, bond counsel or other attorneys, agents and employees as it may require and shall determine their qualifications, duties and compensation subject to the approval of the board of directors. The president shall be an ex officio nonvoting member of the board and may be elected secretary of the board. The powers of the authority shall be vested in the members of the board of directors and ~~three~~ *four* members of the board shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members. Any motion and resolution to authorize an issue of bonds, to approve a loan application, to authorize a lease transaction or to approve a bond guaranty shall have the affirmative vote of at least ~~three~~ *four* board members.

(i) Before the issuance of any bonds, each member of the board of directors of the authority shall execute a surety bond in the penal sum of \$250,000 and the president of the authority shall execute a surety bond in the penal sum of \$250,000, each surety bond to be conditioned upon the faithful performance of the duties of the office by such board member or president, as the case may be, to be executed by a surety company authorized to transact business in the state of Kansas, as surety, and to be approved by the attorney general. At all times after the issuance of any bonds by the authority, each member of the board of directors of the authority shall maintain such surety bonds in full force and effect. All costs of such surety bonds shall be borne by the authority.

(j) The members of the board of directors of the authority shall serve without compensation, but the authority may reimburse its board members for mileage and subsistence expenses incurred in the discharge of their official duties as provided by subsections (b) and (c) of K.S.A. 75-3223, and amendments thereto.

(k) No part of the funds of the authority shall inure to the benefit of, or be distributed to, its employees, officers or board of directors, except that the authority shall be authorized and empowered to pay its employees reasonable compensation.

(l) The authority may be dissolved by act of the legislature on condition that the authority has no debts or obligations outstanding or provision has been made for the payment

or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds and assets thereof shall be vested in the state.

Sec. 3. K.S.A. 2003 Supp. 74-8904 is hereby amended to read as follows: 74-8904. Except as otherwise limited by this act, the authority shall have the following powers to:

- (a) Sue and be sued;
- (b) have a seal and alter such seal;
- (c) make and alter bylaws for its organization and internal management;
- (d) adopt such rules and regulations as may be necessary to carry out the purposes of this act;
- (e) acquire, hold and dispose of real and personal property for its corporate purposes;
- (f) appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;
- (g) borrow money and to issue notes, bonds and other obligations pursuant to K.S.A. 74-8905, and amendments thereto, whether or not the interest on which is subject to federal income taxation, and to provide for the rights of the lenders or holders thereof;
- (h) purchase notes or participations in notes evidencing loans which are secured by mortgages or security interests and to enter into contracts in that regard;
- (i) make secured or unsecured loans for any of the purposes for which bonds of the authority may be issued under this act or to low and moderate income multifamily rental housing projects participating in programs established in section 42 of the federal internal revenue code, and provide financing for housing projects and programs in participation with programs established by the United States department of housing and urban development or the division of housing in the Kansas development finance authority; ~~except as otherwise provided in this subsection, nothing in this act shall be construed to authorize the authority to make loans directly to individuals to finance housing developments; Nothing in this act shall be construed to authorize the authority to make loans directly to individuals to finance housing developments or home mortgage loans except that the authority is authorized to contract with lending institutions to originate, on behalf of or in the name of the authority home mortgage loans secured by a junior lien made only to pay all or a portion of a mortgagor's required down payment or closing costs in connection with the acquisition of a home;~~
- (j) sell mortgages and security interests at public or private sale, to negotiate modifications or alterations in mortgage and security interests, to foreclose on any mortgage or security interest in default or commence any action to protect or enforce any right conferred upon it by any law, mortgage, security agreement, contract or other agreement, and to bid for and purchase property which was the subject of such mortgage or security interest at any foreclosure or at any other sale, to acquire or take possession of any such property, and to exercise any and all rights as provided by law for the benefit or protection of the authority or mortgage holders;
- (k) collect fees and charges in connection with its loans, bond guarantees, commitments and servicing, including, but not limited to, reimbursement of costs of financing as the authority shall determine to be reasonable and as shall be approved by the authority;
- (l) make and execute contracts for the servicing of mortgages acquired by the authority pursuant to this act, and to pay the reasonable value of services rendered to the authority pursuant to those contracts;
- (m) enter into agreements with and accept gifts, grants, loans and other aid from the federal government, the state, any state agency, any political subdivision of the state, or any person or corporation, foundation or legal entity, and to agree to and comply with any conditions attached to federal and state financial assistance not inconsistent with the provisions of this act;
- (n) invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, in such manner as the board shall determine, subject to any agreement with bondholders stated in the authorizing resolution providing for the issuance of bonds;
- (o) procure insurance against any loss in connection with its programs, property and other assets;
- (p) provide technical assistance and advice to the state or political subdivisions of the state and to enter into contracts with the state or political subdivisions of the state to provide

such services. The state or political subdivisions of the state are hereby authorized to enter into contracts with the authority for such services and to pay for such services as may be provided them;

(q) establish accounts in one or more depositories;

(r) lease, acquire, construct, sell and otherwise deal in and contract concerning any facilities;

(s) have and exercise all of the powers granted to the public housing authorities by the state, except that the authority shall not have the power of eminent domain;

(t) do any and all things necessary or convenient to carry out purposes of the authority and exercise the powers given and granted in this act;

(u) assist minority businesses in obtaining loans or other means of financial assistance. The terms and conditions of such loans or financial assistance, including the charges for interest and other services, will be consistent with the provisions of this act. In order to comply with this requirement, efforts must be made to solicit for review and analysis proposed minority business ventures. Basic loan underwriting standards will not be waived to inconsistently favor minority persons or businesses from the intent of the authority's lending practices; ~~and~~

(v) form one or more subsidiary corporations under K.S.A. 17-6001 *et seq.*, and amendments thereto, in accordance with the procedures therein contained. Each subsidiary corporation shall be subject to the same restrictions and limitations as to the powers and purposes to which the authority is subject. The authority may delegate any of its powers, obligations and duties to any subsidiary corporation by inclusion of such powers, obligations and duties in the articles of incorporation of the subsidiary corporation. Subsidiary corporations so formed shall constitute legal entities separate and distinct from each other, the authority and the state. The authority shall not be liable for the debts or obligations or for any actions or inactions of its subsidiary corporations unless the authority expressly agrees otherwise in writing. The authority may make loans or grants to a subsidiary corporation from time to time to enable the subsidiary corporation to carry out its purposes. The members of the authority shall constitute all of the directors of each subsidiary corporation.

The state, any municipality or any state commission, public authority, agency, officer, department, board or division authorized and empowered to enter into agreements with, to grant, convey, lease or otherwise transfer any property to, or to otherwise transact business with the authority, shall have the same authorization and power to engage in these activities with each subsidiary corporation of the authority.

One or more such subsidiary corporation may be formed for purposes of establishing state tax credit equity funds to assist in the development of low-income and middle-income housing and obtain financing through participation in the program established in section 42 of the federal internal revenue code.

Actions of the authority or any subsidiary corporation relating to housing pursuant to this subsection (v) shall be carried out in accordance with any terms, conditions and limitations relating to policy issues regarding housing, as established by the director of housing in the Kansas development finance authority.

One or more such subsidiary corporations may be formed for purposes of acquiring or conveying on behalf of the state and pursuant to this act a project of statewide as well as local importance, issuing bonds on behalf of the state pursuant to this act to finance a project of statewide as well as local importance or otherwise financing on behalf of the state pursuant to this act a project of statewide as well as local importance. The Kansas statewide projects development corporation is hereby created in accordance with this section:

(w) *participate in, administer, coordinate and enter into any agreements to facilitate or to provide any financings as may be related to any tax credit programs which from time to time may be authorized by the federal or state government; and*

(x) *with respect to home mortgage loans, in addition to other powers of the authority pursuant to this act:*

(1) *To acquire, and to contract and enter into advance commitments to acquire, home mortgage loans owned by lending institutions at such prices and upon such other terms and conditions determined by the authority or such other person as it may designate as its agent;*

(2) to make and execute contracts with lending institutions for the origination and servicing of home mortgage loans on behalf of the authority and to pay the reasonable value of services rendered in accordance with such contracts, provided that a lending institution shall have the option to retain servicing on conventional home mortgage loans originated by such lending institution. The authority shall not:

(A) Select an out-of-state master servicer who does not originate a minimum of 50 home mortgage loans for the authority each year;

(B) contract with a master servicer without such master servicer going through the bidding process. Such contract shall not be in effect for a period longer than three years without going through the bidding process for the next three-year servicing contract period. A master servicer who obtains the three-year servicing contract may service all newly originated home mortgage loans made on behalf of the authority during such contract period for the life of the loans;

(3) to establish, by rules and regulations, by resolution relating to any issuance of bonds or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of home mortgage loans or the origination of home mortgage loans as the authority deems necessary or desirable to effectuate the public purposes of this act. Such standards and requirements shall be consistent with standards and requirements with which nongovernmental entities engaged in the purchase of home mortgage loans or the origination of home mortgage loans must comply, and shall not confer a competitive advantage on the authority;

(4) to authorize the sale or other disposition of any home mortgage loan, in whole or in part, upon such terms, at such prices and times, and from time to time, as may be deemed appropriate and necessary;

(5) to pledge any revenues and receipts to be received from or in connection with any home mortgage loans to the punctual payment of bonds therefore, and the interest and redemption premiums, if any, thereon; and

(6) to pledge or grant security interests in any home mortgage loans, notes, revenues therefrom or other property in favor of the holder or holders of bonds issued therefore.”;

And by renumbering the remaining sections accordingly;

On page 3, in line 8, by striking “as” where it appears the second time; in line 9, by striking “defined pursuant to K.S.A. 12-1744, and amendments thereto”;

On page 5, after line 32 by inserting the following:

“(h) The authority may issue private activity bonds for the purpose of financing or acquiring home mortgage loans. Except as provided in K.S.A. 74-8904, and amendments thereto, any moneys derived by the authority from the issuance of bonds under this subsection (h) and not used directly to finance or acquire home mortgage loans shall be used by the authority to support programs or activities related to low or moderate income housing.”;

And by renumbering the remaining subsections accordingly;

On page 6, in line 6, after the comma by inserting “or any time that the authority issues bonds pursuant to subsection (h),”; in line 9, after “issues” by inserting “private activity”; also in line 9, after the comma by inserting “other than bonds issued pursuant to subsection (h),”; after line 13 by inserting the following:

“Sec. 5. K.S.A. 74-8912 is hereby amended to read as follows: 74-8912. Bonds may be issued for the purpose of refunding, either at maturity or in advance of maturity, any bonds issued under this act and any bonds issued by a political subdivision pursuant to the local residential housing finance law, K.S.A. 12-5219 et seq., and amendments thereto, or for any other purpose for which bonds may be issued under this act. Such refunding bonds may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may either be applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or investments for the retirement of the bonds being refunded, as shall be specified by the authority and the authorizing resolution or trust indenture securing such refunding bonds. The authorizing resolution or trust indenture securing the refunding bonds may provide that the refunding bonds shall have the same security for their payment as provided for the bonds being refunded. Refunding bonds shall be sold and secured in accordance with the provisions of this act pertaining to the sale and security of the bonds.

New Sec. 6. Programs funded with proceeds of bonds issued under subsection (h) of K.S.A. 74-8905, and amendments thereto, shall not be restricted by the authority to prevent such programs from being available in all counties of the state and the authority shall adopt policies to facilitate the financing of home mortgage loans in those areas of the state which are not included in any metropolitan statistical area. For a period of at least 90 days following the issuance of bonds under subsection (h) of K.S.A. 74-8905, and amendments thereto, the authority shall reserve for use in financing home mortgage loans in those areas of the state which are not included in any metropolitan statistical area a minimum of 20% of the amount of the proceeds of such bonds that are available to finance home mortgage loans.

New Sec. 7. Prior to July 1, 2005, the secretary shall prepare and submit proposed rules and regulations to the joint committee on administrative rules and regulations setting forth an objective scoring matrix for the purpose of allocating housing tax credits pursuant to this act. The secretary shall use and apply such objective scoring matrix in the allocation of such housing tax credits. The provisions of this section shall be part of and supplemental to the Kansas private activity bond allocation act, K.S.A. 74-5058 et seq., and amendments thereto.

New Sec. 8. The Kansas development finance authority, created by K.S.A. 74-8903, and amendments thereto, shall be audited under the Kansas governmental operations accountability law, and shall be reviewed and evaluated during the 2006 regular session of the legislature, or such other regular session of the legislature designated by the legislative post audit committee in accordance with the provisions of subsection (c) of K.S.A. 74-7285, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

Also on page 6, in line 14, after “K.S.A.” by inserting “74-8903 and 74-8912 and K.S.A.”; also in line 14, after “74-8902” by inserting “, 74-8904”;

On page 1, in the title, in line 10, by striking “relating to” and inserting “concerning”; also in line 10, by striking “concern-”; in line 11, by striking “ing” and inserting “authorizing”; also in line 11, after the semicolon by inserting “the issuance of mortgage revenue bonds;”; also in line 11, after “amending” by inserting “K.S.A. 74-8903 and 74-8912 and”; also in line 11, after “74-8902” by inserting “, 74-8904”

Senator Brownlee further amended **HB 2539** as amended by Senate Committee, on page 3, after line 2, by inserting the following:

“Sec. 2. K.S.A. 2003 Supp. 74-8904 is hereby amended to read as follows: 74-8904. Except as otherwise limited by this act, the authority shall have the following powers to:

- (a) Sue and be sued;
- (b) have a seal and alter such seal;
- (c) make and alter bylaws for its organization and internal management;
- (d) adopt such rules and regulations as may be necessary to carry out the purposes of this act;
- (e) acquire, hold and dispose of real and personal property for its corporate purposes;
- (f) appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;
- (g) borrow money and to issue notes, bonds and other obligations pursuant to K.S.A. 74-8905, and amendments thereto, whether or not the interest on which is subject to federal income taxation, and to provide for the rights of the lenders or holders thereof;
- (h) purchase notes or participations in notes evidencing loans which are secured by mortgages or security interests and to enter into contracts in that regard;
- (i) make secured or unsecured loans for any of the purposes for which bonds of the authority may be issued under this act or to low and moderate income multifamily rental housing projects participating in programs established in section 42 of the federal internal revenue code, and provide financing for housing projects and programs in participation with programs established by the United States department of housing and urban development or the division of housing in the Kansas development finance authority; except as otherwise provided in this subsection, nothing in this act shall be construed to authorize the authority to make loans directly to individuals to finance housing developments;
- (j) sell mortgages and security interests at public or private sale, to negotiate modifications or alterations in mortgage and security interests, to foreclose on any mortgage or security interest in default or commence any action to protect or enforce any right conferred upon

it by any law, mortgage, security agreement, contract or other agreement, and to bid for and purchase property which was the subject of such mortgage or security interest at any foreclosure or at any other sale, to acquire or take possession of any such property, and to exercise any and all rights as provided by law for the benefit or protection of the authority or mortgage holders;

(k) collect fees and charges in connection with its loans, bond guarantees, commitments and servicing, including, but not limited to, reimbursement of costs of financing as the authority shall determine to be reasonable and as shall be approved by the authority;

(l) make and execute contracts for the servicing of mortgages acquired by the authority pursuant to this act, and to pay the reasonable value of services rendered to the authority pursuant to those contracts;

(m) enter into agreements with and accept gifts, grants, loans and other aid from the federal government, the state, any state agency, any political subdivision of the state, or any person or corporation, foundation or legal entity, and to agree to and comply with any conditions attached to federal and state financial assistance not inconsistent with the provisions of this act;

(n) invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, in such manner as the board shall determine, subject to any agreement with bondholders stated in the authorizing resolution providing for the issuance of bonds;

(o) procure insurance against any loss in connection with its programs, property and other assets;

(p) provide technical assistance and advice to the state or political subdivisions of the state and to enter into contracts with the state or political subdivisions of the state to provide such services. The state or political subdivisions of the state are hereby authorized to enter into contracts with the authority for such services and to pay for such services as may be provided them;

(q) establish accounts in one or more depositories;

(r) lease, acquire, construct, sell and otherwise deal in and contract concerning any facilities;

(s) have and exercise all of the powers granted to the public housing authorities by the state, except that the authority shall not have the power of eminent domain;

(t) do any and all things necessary or convenient to carry out purposes of the authority and exercise the powers given and granted in this act;

(u) assist minority businesses in obtaining loans or other means of financial assistance. The terms and conditions of such loans or financial assistance, including the charges for interest and other services, will be consistent with the provisions of this act. In order to comply with this requirement, efforts must be made to solicit for review and analysis proposed minority business ventures. Basic loan underwriting standards will not be waived to inconsistently favor minority persons or businesses from the intent of the authority's lending practices; ~~and~~

(v) form one or more subsidiary corporations under K.S.A. 17-6001 *et seq.*, and amendments thereto, in accordance with the procedures therein contained. Each subsidiary corporation shall be subject to the same restrictions and limitations as to the powers and purposes to which the authority is subject. The authority may delegate any of its powers, obligations and duties to any subsidiary corporation by inclusion of such powers, obligations and duties in the articles of incorporation of the subsidiary corporation. Subsidiary corporations so formed shall constitute legal entities separate and distinct from each other, the authority and the state. The authority shall not be liable for the debts or obligations or for any actions or inactions of its subsidiary corporations unless the authority expressly agrees otherwise in writing. The authority may make loans or grants to a subsidiary corporation from time to time to enable the subsidiary corporation to carry out its purposes. The members of the authority shall constitute all of the directors of each subsidiary corporation.

The state, any municipality or any state commission, public authority, agency, officer, department, board or division authorized and empowered to enter into agreements with, to grant, convey, lease or otherwise transfer any property to, or to otherwise transact business

with the authority, shall have the same authorization and power to engage in these activities with each subsidiary corporation of the authority.

One or more such subsidiary corporation may be formed for purposes of establishing state tax credit equity funds to assist in the development of low-income and middle-income housing and obtain financing through participation in the program established in section 42 of the federal internal revenue code.

Actions of the authority or any subsidiary corporation relating to housing pursuant to this subsection (v) shall be carried out in accordance with any terms, conditions and limitations relating to policy issues regarding housing, as established by the director of housing in the Kansas development finance authority.

One or more such subsidiary corporations may be formed for purposes of acquiring or conveying on behalf of the state and pursuant to this act a project of statewide as well as local importance, issuing bonds on behalf of the state pursuant to this act to finance a project of statewide as well as local importance or otherwise financing on behalf of the state pursuant to this act a project of statewide as well as local importance. The Kansas statewide projects development corporation is hereby created in accordance with this section; and

(w) assist, coordinate, administer and participate with out-of-state: Governmental authorities, bodies, issuers and other public and private entities; in connection with the issuance of bonds, notes or other evidence of indebtedness for the purpose of financing any facilities whether such facility is located within or outside of Kansas. In connection with such financings, which include out-of-state issuers, the authority is designated as the only entity in Kansas which may conduct the public hearing of the applicable governmental unit required by section 147 (f) of the federal internal revenue code of 1986, as amended, and the governor of Kansas is designated as the only entity in Kansas who may be the applicable governmental unit pursuant to section 147 (f) of the federal internal revenue code of 1986, as amended. Following such hearing the authority shall determine whether such financing should proceed with respect to facilities located within Kansas by an out-of-state issuer. If the authority determines that the financing should not proceed, the financing shall not proceed relative to the Kansas facilities.”;

And by renumbering the remaining sections accordingly;

Also on page 3, in line 9, by striking “defined pursuant to K.S.A. 12-1744, and amendments thereto” and inserting “defined pursuant to K.S.A. 74-8902, and amendments thereto”; in line 15, by striking the comma and inserting “or”; also in line 15, by striking “or”; in line 16, by striking “health care facilities”; also in line 16, by striking “may be” and inserting “are being”;

On page 4, in line 6, after the comma where it appears the first time by inserting “transportation facilities,”; in line 10, after “facilities” by inserting “, whether located within or outside of Kansas”; in line 11, after “activity” by inserting “within Kansas”; in line 21, after “activity” by inserting “within Kansas”; in line 24, after the period by inserting “The authority shall not issue bonds for the purpose of financing a project or activity outside Kansas unless the authority has determined that the issuance of such bonds provides a benefit to Kansas or its people and that the owner or operator thereof or an affiliate has a presence or impact in Kansas.”;

On page 6, in line 9, after “issues” by inserting “private activity”; in line 14, after “74-8902” by inserting “,74-8904”

On page 1, in the title, in line 11, after the semicolon by inserting “funding out-of-state projects; also in line 11, after “74-8902” by inserting “, 74-8904”, and **HB 2539** be passed as further amended.

HB 2658 be amended by adoption of the committee amendments, be further amended by motion of Senator Lee as amended by Senate Committee, on page 2, following line 20, by inserting:

“Sec. 2. (a) As used in this section:

(1) “Confined feeding facility” has the meaning provided by K.S.A. 65-171d, and amendments thereto.

(2) “Public livestock market” has the meaning provided by K.S.A. 47-1001, and amendments thereto, except that the term includes any livestock market where federal veterinary inspection is regularly maintained.

(b) Any prohibition against locating an adult care home within a specified distance of a confined feeding facility or other concentrated livestock operation shall not apply in relation to public livestock markets.

(c) If an adult care home is located within the separation distance prescribed by K.S.A. 65-171d, and amendments thereto, with respect to a preexisting public livestock market, neither the separation distance requirements nor the requirements for reduction of separation distance requirements nor the requirements for reduction of separation distance requirements pursuant to K.S.A. 65-171d, and amendments thereto, shall apply with respect to such adult care home.

(d) This act shall be a part of and supplemental to the adult care home licensure act.”;
By renumbering section 2 accordingly;

In the title, in line 13, before the period, by inserting “; relating to certain restrictions on location of adult care homes”, and **HB 2658** be passed as further amended.

HB 2813 be amended by adoption of the committee amendments, be further amended by motion of Senator Barnett as amended by Senate Committee, on page 1, in line 16, before “Section” by inserting “New”;

On page 3, after line 14, by inserting the following:

“Sec. 2. K.S.A. 39-1504 is hereby amended to read as follows: 39-1504. The secretary shall administer the adult family home registration program in accordance with the following requirements:

(a) (1) The home shall meet health standards and safety regulations of the community and the provisions of chapter 20 of the national fire protection association, life safety code, pamphlet no. 101, 1981 edition.

(2) The home shall have a written plan to get persons out of the home rapidly in case of fire, tornado or other emergency.

(3) No more than two clients shall be in residence at any one time.

(4) The home shall have adequate living and sleeping space for clients.

(5) Each room shall have an operable outside window.

(6) Electric fans shall be made available to reduce the temperature if there is no air conditioning. Rooms shall be heated, lighted, ventilated and available.

(7) Sleeping rooms shall have space for personal items.

(8) Each client shall have a bed which is clean and in good condition.

(9) Lavatory and toilet facilities shall be accessible, available and in working order.

(10) The kitchen shall be clean with appliances in good working order.

(b) (1) A healthy and safe environment shall be maintained for clients.

(2) There shall be a telephone in the home.

(3) The provider may assist a client with the taking of medications when the medication is in a labeled bottle which clearly shows a physician’s orders and when the client requires assistance because of tremor, visual impairment, or similar reasons due to health conditions. The provider may assist or perform for the client such physical activities which do not require daily supervision such as assistance with eating, bathing and dressing, help with brace or walker and transferring from wheelchairs.

(4) There shall be no use of corporal punishment, restraints or punitive measures.

(5) The house shall be free from accumulated dirt, trash and vermin.

(6) Meals shall be planned and prepared for adequate nutrition, and for diets if directed by a physician.

(c) (1) The provider shall be at least 18 years of age and in good health at the time of initial application for registration. A written statement must be received from a physician, nurse practitioner, or ~~physician’s~~ *physician* assistant stating that the applicant and the members of the applicant’s household are free of any infectious or communicable disease or health condition and are physically and mentally healthy. Such statements shall be renewed every two years.

(2) The provider shall not be totally dependent on the income from the clients for support of the provider or the provider’s family.

(3) A criminal conviction shall not necessarily exclude registration as an adult family home; but an investigation thereof will be made as part of the determination of the suitability of the home.

(4) The provider shall be responsible for supervision at all times and shall be in charge of the home and provision of care, or shall have a responsible person on call. Any such substitute responsible person shall meet the same requirements as the provider.

(5) The provider is responsible for encouraging the client to seek and utilize available services when needed.

(6) The provider shall comply with the requirements of state and federal regulations concerning civil rights and section 504 of the federal rehabilitation act of 1973.

(7) The provider shall assure that clients have the privilege of privacy as well as the right to see relatives, friends and participate in regular community activities.

(8) The provider shall keep client information confidential. The use or disclosure of any information concerning a client for any purpose is prohibited except on written consent of the client or upon order of the court.

(9) The provider shall maintain contact with an assigned social worker and shall allow the secretary and authorized representatives of the secretary access to the home and grounds and to the records related to clients in residence.

(10) The provider shall inform the social worker immediately of any unscheduled client absence from the home.

(11) The provider is responsible for helping clients maintain their clothing.

(12) The provider shall furnish or help clients arrange for transportation.

(13) The provider shall help a client arrange for emergency and regular medical care when necessary.

(14) The provider shall submit any information relating to the operation of the adult family home which is required by the secretary.

Sec. 3. K.S.A. 65-468 is hereby amended to read as follows: 65-468. As used in K.S.A. 65-468 to 65-474, inclusive, and amendments thereto:

(a) "Health care provider" means any person licensed or otherwise authorized by law to provide health care services in this state or a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by law to form such corporation and who are health care providers as defined by this subsection, or an officer, employee or agent thereof, acting in the course and scope of employment or agency.

(b) "Member" means any hospital, emergency medical service, local health department, home health agency, adult care home, medical clinic, mental health center or clinic or nonemergency transportation system.

(c) "Mid-level practitioner" means a ~~physician's~~ *physician* assistant or advanced registered nurse practitioner who has entered into a written protocol with a rural health network physician.

(d) "Physician" means a person licensed to practice medicine and surgery.

(e) "Rural health network" means an alliance of members including at least one critical access hospital and at least one other hospital which has developed a comprehensive plan submitted to and approved by the secretary of health and environment regarding patient referral and transfer; the provision of emergency and nonemergency transportation among members; the development of a network-wide emergency services plan; and the development of a plan for sharing patient information and services between hospital members concerning medical staff credentialing, risk management, quality assurance and peer review.

(f) "Critical access hospital" means a member of a rural health network which makes available twenty-four hour emergency care services; provides not more than 15 acute care inpatient beds or in the case of a facility with an approved swing-bed agreement a combined total of extended care and acute care beds that does not exceed 25 beds (provided that the number of beds used at any time for acute care inpatient services does not exceed 15 beds); provides acute inpatient care for a period that does not exceed, on an annual average basis, 96 hours per patient; and provides nursing services under the direction of a licensed professional nurse and continuous licensed professional nursing services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients unless an exemption is granted by the licensing agency pursuant to rules and regulations. The critical access hospital may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist and radiological technologist on a part-time, off-site basis under written agreements

or arrangements with one or more providers or suppliers recognized under medicare. The critical access hospital may provide inpatient services by a ~~physician's~~ *physician* assistant, nurse practitioner or a clinical nurse specialist subject to the oversight of a physician who need not be present in the facility.

(g) "Hospital" means a hospital other than a critical access hospital which has entered into a written agreement with at least one critical access hospital to form a rural health network and to provide medical or administrative supporting services within the limit of the hospital's capabilities.

Sec. 4. K.S.A. 65-1728 is hereby amended to read as follows: 65-1728. For the purpose of removing an eye or part thereof, any embalmer licensed in accordance with the provisions of article 17 of chapter 65 of the Kansas Statutes Annotated, and acts amendatory thereof, a licensed nurse, technician employed by a nationally certified eye bank, licensed optometrist, attendant as defined under K.S.A. 65-6112 and amendments thereto or ~~physician's~~ *physician* assistant, who has completed a course in eye enucleation at a school certified by the department of ophthalmology, college of medicine of the university of Kansas school of medicine, and holds a valid certificate of competence from such certified school, or a person licensed to practice medicine and surgery is hereby authorized to enucleate eyes from any body when the gift of such eye has been made in accordance with the terms of the Kansas anatomical gift act (K.S.A. 65-3209 *et seq.*). Persons certified in accordance with this section and persons licensed to practice medicine and surgery who perform the enucleation of eyes in accordance with the provisions of K.S.A. 65-3209 *et seq.* shall incur no liability, civil or criminal, for his acts in performance of enucleation of eyes.

Sec. 5. K.S.A. 2003 Supp. 65-2891 is hereby amended to read as follows: 65-2891. (a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any health care provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such health care provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any health care provider may in good faith render emergency care or assistance during an emergency which occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by the patient's family or by guardian assumes responsibility for such patient's professional care. The health care provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

(d) Any provision herein contained notwithstanding, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section the term "health care provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, licensed podiatrist, licensed pharmacist, licensed physical therapist, and any physician assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for ~~physicians'~~ *physician* assistants of the American board of medical examiners, any registered athletic trainer, any licensed occupational therapist, any licensed respiratory therapist, any person who holds a valid attendant's certificate under K.S.A. 65-6129, and amendments thereto, any person who holds a valid certificate for the successful completion of a course in first aid offered or approved by the American red cross, by the American heart association, by the mining enforcement and safety administration of the bureau of mines of the department of interior, by the national safety council or by any instructor-coordinator, as defined in K.S.A. 65-6112, and amendments thereto, and any

person engaged in a postgraduate training program approved by the state board of healing arts.

Sec. 6. K.S.A. 65-28,127 is hereby amended to read as follows: 65-28,127. (a) Every responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

- (1) Be actively engaged in the practice of the healing arts in Kansas;
- (2) review and keep current any required practice protocols between the responsible licensee and such persons, as may be determined by the board;
- (3) direct, supervise, order, refer, enter into a practice protocol with, or delegate to such persons only those acts and functions which the responsible licensee knows or has reason to believe such person is competent and authorized by law to perform;
- (4) direct, supervise, order, refer, enter into a practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the responsible licensee;
- (5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and practice protocols with such persons when the responsible licensee is temporarily absent;
- (6) *comply with all rules and regulations of the board establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.*

(b) "Responsible licensee" means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

(c) ~~Notwithstanding the provisions of this section~~ *Except as otherwise provided by rules and regulations of the board implementing this section,* the physician assistant licensure act shall govern the direction and supervision of ~~physicians'~~ *physician* assistants by persons licensed by the state board of healing arts to practice medicine and surgery.

(d) Nothing in subsection (a)(4) shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing anesthesia care by a registered nurse anesthetist pursuant to K.S.A. 65-1158 and amendments thereto.

(e) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing physical therapy services pursuant to K.S.A. 65-2901 *et seq.* and amendments thereto.

(f) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from entering into a co-management relationship with an optometrist pursuant to K.S.A. 65-1501 *et seq.* and amendments thereto.

(g) *The board may adopt rules and regulations establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.*

~~(g)~~ (h) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 7. K.S.A. 65-28a10 is hereby amended to read as follows: 65-28a10. ~~No responsible physician shall have under such physician's direction and supervision more than two physician assistants.~~ *The board shall limit the number of physician assistants a responsible physician may supervise at any one time to the equivalent of two full-time physician assistants as approved in each case by the board. Any limitation on the number of physician assistants in this section shall not apply to services performed in a medical care facility, as defined in K.S.A. 65-425 and amendments thereto.*

Sec. 8. K.S.A. 65-5001 is hereby amended to read as follows: 65-5001. As used in this act unless the context requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Credentialing" or "credentialed" means the formal recognition of professional or technical competence through the process of registration, licensure or other statutory regulation.

(b) "Certification" means the process by which a nongovernmental agency or association or the federal government grants recognition to an individual who has met certain prede-

terminated qualifications specified by the nongovernmental agency or association or the federal government.

(c) "Registration" means the process by which the state identifies and lists on an official roster those persons who meet predetermined qualifications and who will be the only persons permitted to use a designated title.

(d) "Licensure" means a method of regulation by which the state grants permission to persons who meet predetermined qualifications to engage in an occupation or profession, and that to engage in such occupation or profession without a license is unlawful.

(e) "Health care personnel" means those persons whose principal functions, customarily performed for remuneration, are to render services, directly or indirectly, to individuals for the purpose of:

- (1) Preventing physical, mental or emotional illness;
- (2) detecting, diagnosing and treating illness;
- (3) facilitating recovery from illness; or
- (4) providing rehabilitative or continuing care following illness; and who are qualified by training, education or experience to do so.

(f) "Provider of health care" means an individual:

(1) Who is a direct provider of health care (including but not limited to a person licensed to practice medicine and surgery, licensed dentist, registered professional nurse, licensed practical nurse, licensed podiatrist, or ~~physician's~~ *physician* assistant) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including medical care facilities, long-term care facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by state law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration;

(2) who holds a fiduciary position with, or has a fiduciary interest in, any entity described in subsection (f)(3)(B) or subsection (f)(3)(D) other than an entity described in either such subsection which is also an entity described in section 501(c)(3) of the internal revenue code of 1954, as amended and supplemented, and which does not have as its primary purpose the delivery of health care, the conduct of research, the conduct of instruction for health professionals or the production of drugs or articles described in subsection (f)(3)(C);

(3) who receives, either directly or through a spouse, more than $\frac{1}{5}$ of such person's gross annual income from any one or combination of the following:

(A) Fees or other compensation for research into or instruction in the provision of health care;

(B) entities engaged in the provision of health care or in such research or instruction;

(C) producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care; or

(D) entities engaged in producing drugs or such other articles;

(4) who is a member of the immediate family of an individual described in subsection (f)(1), (f)(2) or (f)(3); or

(5) who is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits. An individual shall not be considered a provider of health care solely because the individual is a member of the governing board of an entity described in subsection (f)(3)(B) or subsection (f)(3)(D).

(g) "Consumer of health care" means an individual who is not a provider of health care.

(h) "Secretary" means the secretary of health and environment.

Sec. 9. K.S.A. 2003 Supp. 65-5912 is hereby amended to read as follows: 65-5912. (a) Nothing in this act shall be construed to require any insurer or other entity regulated under chapter 40 of the Kansas Statutes Annotated or any other law of this state to provide coverage for or indemnify for the services provided by a person licensed under this act.

(b) So long as the following persons do not hold themselves out to the public to be dietitians or licensed dietitians or use these titles in combination with other titles or use the abbreviation L.D., or any combination thereof, nothing in this act shall be construed to apply:

(1) To any person licensed to practice the healing arts, a licensed dentist, a licensed dental hygienist, a licensed professional nurse, a licensed practical nurse, a licensed psychologist, a licensed masters level psychologist, a licensed pharmacist or an employee thereof, a ~~physician's~~ *physician* assistant, a licensed professional counselor;

(2) to any unlicensed employee of a licensed adult care home or a licensed medical care facility as long as such person is working under the general direction of a licensee in the healing arts, nursing or a dietetic services supervisor as defined in regulations adopted by the secretary of health and environment or a consultant licensed under this act;

(3) to any dietetic technician or dietetic assistant;

(4) to any student enrolled in an approved academic program in dietetics, home economics, nutrition, education or other like curriculum, while engaged in such academic program;

(5) to prevent any person, including persons employed in health food stores, from furnishing nutrition information as to the use of food, food materials or dietary supplements, nor to prevent in any way the free dissemination of information or of literature as long as no individual engaged in such practices holds oneself out as being licensed under this act;

(6) to prohibit any individual from marketing or distributing food products, including dietary supplements, or to prevent any such person from providing information to customers regarding the use of such products;

(7) to prevent any employee of the state or a political subdivision who is employed in nutrition-related programs from engaging in activities included within the definition of dietetics practice as a part of such person's employment;

(8) to any person who performs the activities and services of a licensed dietitian or nutrition educator as an employee of the state or a political subdivision, an elementary or secondary school, an educational institution, a licensed institution, or a not-for-profit organization;

(9) to any person serving in the armed forces, the public health service, the veterans administration or as an employee of the federal government;

(10) to any person who has a degree in home economics insofar as the activities of such person are within the scope of such person's education and training;

(11) to any person who counsels or provides weight-control services as a part of a franchised or recognized weight-control program or a weight-control program that operates under the general direction of a person licensed to practice the healing arts, nursing or a person licensed under this act;

(12) to any person who is acting as a representative of a trade association and who engages in one or more activities included within the practice of dietetics as a representative of such association;

(13) to a licensed physical therapist who makes a dietetic or nutritional assessment or gives dietetic or nutritional advice in the normal practice of such person's profession or as otherwise authorized by law;

(14) to a dietitian licensed, registered or otherwise authorized to practice dietetics in another state who is providing consultation in this state;

(15) to any person conducting a teaching clinical demonstration which is carried out in an educational institution or an affiliated clinical facility or health care agency;

(16) to any person conducting classes or disseminating information relating to nonmedical nutrition; or

(17) to any person permitted to practice under K.S.A. 65-2872a and amendments thereto.

(c) Nothing in this act shall be construed to interfere with the religious practices or observances of a bona fide religious organization, nor to prevent any person from caring for the sick in accordance with tenets and practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing.

Sec. 10. K.S.A. 65-6119 is hereby amended to read as follows: 65-6119. Notwithstanding any other provision of law, mobile intensive care technicians may:

(a) Perform all the authorized activities identified in K.S.A. 65-6121, and amendments thereto;

(b) perform cardiopulmonary resuscitation and defibrillation;

(c) when voice contact or a telemetered electrocardiogram is monitored by a physician, ~~physician's~~ *physician* assistant where authorized by a physician or licensed professional nurse

where authorized by a physician and direct communication is maintained, and upon order of such person may administer such medications or procedures as may be deemed necessary by a person identified in subsection (c);

(d) perform, during an emergency, those activities specified in subsection (c) before contacting a person identified in subsection (c) when specifically authorized to perform such activities by medical protocols; and

(e) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

Sec. 11. K.S.A. 65-6120 is hereby amended to read as follows: 65-6120. Notwithstanding any other provision of law to the contrary, an emergency medical technician-intermediate may:

(a) Perform any of the activities identified by K.S.A. 65-6121, and amendments thereto;

(b) when approved by medical protocols and where voice contact by radio or telephone is monitored by a physician, ~~physician's~~ *physician* assistant where authorized by a physician or licensed professional nurse where authorized by a physician, and direct communication is maintained, upon order of such person, may perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions, endotracheal intubation and administration of nebulized albuterol;

(c) perform, during an emergency, those activities specified in subsection (b) before contacting the persons identified in subsection (b) when specifically authorized to perform such activities by medical protocols; or

(d) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

Sec. 12. K.S.A. 65-6123 is hereby amended to read as follows: 65-6123. Notwithstanding any other provision of law to the contrary, an emergency medical technician-defibrillator may:

(a) Perform any of the activities identified in K.S.A. 65-6121, and amendments thereto;

(b) when approved by medical protocols and where voice contact by radio or telephone is monitored by a physician, ~~physician's~~ *physician* assistant where authorized by a physician or licensed professional nurse where authorized by a physician, and direct communication is maintained, upon order of such person, may perform electrocardiographic monitoring and defibrillation;

(c) perform, during an emergency, those activities specified in subsection (b) before contacting the persons identified in subsection (b) when specifically authorized to perform such activities by medical protocols; or

(d) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

Sec. 13. K.S.A. 65-6124 is hereby amended to read as follows: 65-6124. (a) No physician, ~~physician's~~ *physician* assistant or licensed professional nurse, who gives emergency instructions to a mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate during an emergency, shall be liable for any civil damages as a result of issuing the instructions, except such damages which may result from gross negligence in giving such instructions.

(b) No mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate who renders emergency care during an emergency pursuant to instructions given by a physician, the responsible physician for a ~~physi-~~ *physician's* *physician* assistant or licensed professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of such mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate rendering such emergency care.

(c) No first responder who renders emergency care during an emergency shall be liable for civil damages as a result of rendering such emergency care, except for such damages which may result from gross negligence or from willful or wanton acts or omissions on the part of the first responder rendering such emergency care.

(d) No person certified as an instructor-coordinator and no training officer shall be liable for any civil damages which may result from such instructor-coordinator's or training officer's course of instruction, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of the instructor-coordinator or training officer.

(e) No medical adviser who reviews, approves and monitors the activities of attendants shall be liable for any civil damages as a result of such review, approval or monitoring, except such damages which may result from gross negligence in such review, approval or monitoring.

Sec. 14. K.S.A. 72-5213 is hereby amended to read as follows: 72-5213. (a) Every board of education shall require all employees of the school district, who come in regular contact with the pupils of the school district, to submit a certification of health on a form prescribed by the secretary of health and environment and signed by a person licensed to practice medicine and surgery under the laws of any state, or by a person who is ~~registered~~ *licensed* as a ~~physician's~~ *physician* assistant under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery, or by a person holding a certificate of qualification to practice as an advanced registered nurse practitioner under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery. The certification shall include a statement that there is no evidence of physical condition that would conflict with the health, safety, or welfare of the pupils; and that freedom from tuberculosis has been established by chest x-ray or negative tuberculin skin test. If at any time there is reasonable cause to believe that any such employee of the school district is suffering from an illness detrimental to the health of the pupils, the school board may require a new certification of health.

(b) Upon presentation of a signed statement by the employee of a school district, to whom the provisions of subsection (a) apply, that the employee is an adherent of a religious denomination whose religious teachings are opposed to physical examinations, the employee shall be permitted to submit, as an alternative to the certification of health required under subsection (a), certification signed by a person licensed to practice medicine and surgery under the laws of any state, or by a person who is ~~registered~~ *licensed* as a ~~physician's~~ *physician* assistant under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery, or by a person holding a certificate of qualification to practice as an advanced registered nurse practitioner under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery that freedom of the employee from tuberculosis has been established.

(c) Every board of education may require persons, other than employees of the school district, to submit to the same certification of health requirements as are imposed upon employees of the school district under the provisions of subsection (a) if such persons perform or provide services to or for a school district which require such persons to come in regular contact with the pupils of the school district. No such person shall be required to submit a certification of health if the person presents a signed statement that the person is an adherent of a religious denomination whose religious teachings are opposed to physical examinations. Such persons shall be permitted to submit, as an alternative to a certification of health, certification signed by a person licensed to practice medicine and surgery under the laws of any state, or by a person who is ~~registered~~ *licensed* as a ~~physician's~~ *physician* assistant under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery, or by a person holding a certificate of qualification to practice as an advanced registered nurse practitioner under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery that freedom of such persons from tuberculosis has been established.

(d) The expense of obtaining certifications of health and certifications of freedom from tuberculosis may be borne by the board of education.

Sec. 15. K.S.A. 65-2005 is hereby amended to read as follows: 65-2005. (a) A licensee shall be designated a licensed podiatrist and shall not use any title or abbreviations without

the designation licensed podiatrist, practice limited to the foot, and shall not mislead the public as to such licensee's limited professional qualifications to treat human ailments. Whenever a registered podiatrist, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to refer to or designate a licensed podiatrist.

(b) The license of each licensed podiatrist shall expire on the date established by rules and regulations of the board which may provide renewal throughout the year on a continuing basis. In each case in which a license is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-2012 and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established under K.S.A. 65-2012 and amendments thereto which shall be paid not later than the expiration date of the license. At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If a licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the licensee's license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, such licensee's license shall be canceled *by operation of law and without further proceedings* for failure to renew and shall be reissued only after the licensee has been reinstated under subsection (c).

(c) Any licensee who allows the licensee's license to be canceled by failing to renew may be reinstated upon recommendation of the board and upon payment of the renewal fee and the reinstatement fee established pursuant to K.S.A. 65-2012 and amendments thereto and upon submitting evidence of satisfactory completion of the applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose licenses have been canceled for failure to renew.

(d) The board, prior to renewal of a license, shall require the licensee, if in the active practice of podiatry within Kansas, to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402 and amendments thereto and has paid the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(e) The board may issue a temporary permit to practice podiatry in this state to any person making application for such temporary permit upon a form provided by the board *a license to practice podiatry* who meets the requirements prescribed by the board *required qualifications for a license* and who pays to the board the temporary permit fee established pursuant to K.S.A. 65-2012 and amendments thereto. A temporary permit shall authorize the permittee to practice within the limits of the permit until the license is issued or denied to the permittee by the board, ~~except that where a graduate podiatrist is working under the supervision of a licensed podiatrist in a training program approved by the board, the temporary permit issued to such graduate podiatrist shall be valid for the period of such training program.~~

(f) *The board may issue a postgraduate permit to practice podiatry to any person engaged in a full-time, approved postgraduate study program; has made application for such postgraduate permit upon a form provided by the board; meets all the qualifications for a license, except the examination required under K.S.A. 65-2004, and amendments thereto; and has paid the fee established pursuant to K.S.A. 65-2012, and amendments thereto. The postgraduate permit shall authorize the person receiving the permit to practice podiatry in the postgraduate study program, but shall not authorize practice outside of the postgraduate study program. The postgraduate permit shall be canceled if the permittee ceases to be engaged in the postgraduate study program.*

(g) The board may issue, upon payment to the board of the temporary license fee established pursuant to K.S.A. 65-2012 and amendments thereto, a temporary license to a practitioner of another state or country who is appearing as a clinician at meetings, seminars or training programs approved by the board, if the practitioner holds a current license,

registration or certificate as a podiatrist from another state or country and the sole purpose of such appearance is for promoting professional education.

~~(g)~~ (h) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established under K.S.A. 65-2012 and amendments thereto. The board may issue an exempt license only to a person who has previously been issued a license to practice podiatry within Kansas, who is no longer regularly engaged in such practice and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of podiatry. Each exempt license may be renewed annually subject to the other provisions of this section and other sections of the podiatry act. Each exempt licensee shall be subject to all provisions of the podiatry act, except as otherwise provided. The holder of an exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education required under the podiatry act. Each exempt licensee may apply for a license to regularly engage in the practice of podiatry upon filing a written application with the board and submitting evidence of satisfactory completion of the applicable and continuing education requirements established by the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established under K.S.A. 65-2012 and amendments thereto. The board shall adopt rules and regulations establishing appropriate and continuing education requirements for exempt licensees to become licensed to regularly practice podiatry within Kansas.

(i) *There is hereby created a designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to K.S.A. 65-2012, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license to practice podiatry in Kansas, who is not regularly engaged in the practice of podiatry in Kansas, who does not hold oneself out to the public as being professionally engaged in such practice and who meets the definition of inactive health care provider as defined in K.S.A. 40-3401, and amendments thereto. An inactive license shall not entitle the holder to practice podiatry in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the podiatry act, except as otherwise provided in this subsection. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 65-2010, and amendments thereto. Each inactive licensee may apply for a license to regularly engage in the practice of podiatry upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2012, and amendments thereto. For those licensees whose license has been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice podiatry within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of podiatry or engaged in a formal education program since the licensee has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.*

(j) *There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes written application for such license on a form provided by the board and remits the same fee required for a license established under K.S.A. 65-2012, and amendments thereto. The board may issue a federally active license only to a person who meets all the requirements for a license to practice podiatry in Kansas and who practices podiatry solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who, in addition to such employment or assignment, provides professional services as a charitable health care provider as defined under K.S.A. 75-6102, and amendments thereto. The provisions of subsections (b) and (c) of this section relating to expiration, renewal and reinstatement of a license and K.S.A. 65-2010, and amendments thereto, relating to continuing education shall be applicable to a federally active license issued under this subsection. A person*

who practices under a federally active license shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

~~(h)~~ (k) Each license or permit granted under this act shall be conspicuously displayed at the office or other place of practice of the licensee or permittee.

(l) A person whose license has been revoked may apply for reinstatement of the license after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by a reinstatement of a revoked license fee established by the board under K.S.A. 65-2012, and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement of the license. If the board determines a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions. The board, on its own motion, may stay the effectiveness of an order of revocation of license.

Sec. 16. K.S.A. 65-2012 is hereby amended to read as follows: 65-2012. The following fees shall be established by rules and regulations adopted by the board and shall be collected by the board:

(a) For a license to practice podiatry or an inactive license or federally active license, issued on the basis of an examination, an amount of not more than \$300;

(b) for a license to practice podiatry or an inactive license or federally active license, issued without examination and by endorsement, an amount of not more than \$300;

~~(c) for a license to practice podiatry, issued upon request of an exempt licensee, an amount of not more than \$300;~~

~~(d) for an exempt license or renewal of an exempt license, an amount of not more than \$300;~~

~~(e) (c) for the annual renewal of a license to practice podiatry or an inactive license or federally active license, an amount of not more than \$300 \$500;~~

(d) for the renewal of an exempt license, an amount of not more than \$150;

(e) for the renewal of an inactive license, an amount of not more than \$150;

(f) for late renewal of any license, an amount of not more than ~~\$200~~ \$500;

(g) for reinstatement of a licensee whose license lapsed canceled for failure to renew, an amount of not more than ~~\$200~~ \$300;

(h) for a temporary permit, an amount of not more than \$60;

(i) for a temporary license, an amount of not more than \$50;

(j) for any examination given by the board, an amount equal to the cost to the board of the examination and its administration;

(k) for a certified statement from the board that a licensee is licensed to practice podiatry in this state, an amount of not more than \$30;

(l) for any copy of any license issued by the board, an amount of not more than \$30; and

(m) for written verification of any license issued by the board, ~~in~~ an amount of not more than \$25;

(n) for conversion of an exempt or inactive license to a license to practice podiatry, an amount of not more than \$300;

(o) for reinstatement of a revoked license, an amount of not more than \$1,000; and

(p) for a postgraduate permit, an amount of not more than \$60.

Sec. 17. K.S.A. 65-28a03 is hereby amended to read as follows: 65-28a03. (a) ~~The state board of healing arts shall maintain a registry of the names of physician assistants who may engage in active practice. No person's name shall be entered on the registry of physician assistants unless such person has:~~

~~(1) Presented to the state board of healing arts proof of current licensure;~~

~~(2) presented to the board a request signed by the applicant's proposed responsible physician on a form provided by the board which shall contain such information as required by rules and regulations adopted by the board.~~

~~(b) A person's name may be removed from the registry of physician assistants who may engage in private practice if:~~

~~(1) The person whose name is entered on the registry as a licensed physician assistant requests or consents to the removal thereof;~~

~~(2) the state board of healing arts determines that the person whose name is entered on the registry as a licensed physician assistant has not been employed as a physician assistant or as a teacher or instructor of persons being educated and trained to become a physician assistant in a course of education and training approved by the state board of healing arts under this act and amendments thereto at sometime during the five years immediately preceding the date of such determination;~~

~~(3) the board determines, after notice and opportunity to be heard, in accordance with the provisions of the Kansas administrative procedure act, that a physician assistant has violated any provision of this act and amendments thereto, or any rules and regulations adopted pursuant thereto; or~~

~~(4) the board determines, after notice and opportunity to be heard, in accordance with the provisions of the Kansas administrative procedure act, that the request by the proposed responsible physician pursuant to this act and amendments thereto should not be approved.~~

~~(c) The state board of healing arts may remove a person's name from the registry as a licensed physician assistant or may refuse to place a person's name on the registry as a licensed physician assistant if the board determines, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that a physician assistant has exceeded or has acted outside the scope of authority given the physician assistant by the responsible physician or by this act. *As a condition of engaging in active practice as a physician assistant, each licensed physician assistant shall file a request to engage in active practice signed by the physician assistant and the physician who will be responsible for the physician assistant. The request shall contain such information as required by rules and regulations adopted by the board. The board shall maintain a list of the names of physician assistants who may engage in active practice in this state.*~~

~~(b)~~ (b) All licenses, except temporary licenses, shall expire on the date of expiration established by rules and regulations of the state board of healing arts and may be renewed as required by the board. The request for renewal shall be on a form provided by the state board of healing arts and shall be accompanied by the renewal fee established pursuant to this section, which shall be paid not later than the expiration date of the license.

~~(c)~~ (c) At least 30 days before the expiration of the license of a physician assistant, except a temporary license, the state board of healing arts shall notify the licensee of the expiration by mail addressed to the licensee's last ~~place of residence~~ *mailing address* as noted upon the office records of the board. If the licensee fails to pay the renewal fee by the date of expiration of the license, the licensee shall be given a second notice that the licensee's license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the state board of healing arts within the 30-day period following the date of expiration and that, if both fees are not received within the 30-day period, the license shall be ~~considered to have lapsed~~ *deemed canceled by operation of law without further proceedings* for failure to renew and shall be reissued only after the ~~physician assistant license~~ *license* has been reinstated under subsection ~~(d)~~ (d).

~~(d)~~ (d) Any ~~licensee who allows the licensee's license to lapse by failing~~ *licensee* ~~to renew as herein provided may be reinstated upon recommendation of the state board of healing arts and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of persons whose licenses have lapsed~~ *canceled for failure to renew.*

(e) *There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to subsection (g) of this section. The board may issue an inactive license only to a person who meets all the requirements for a license to practice as a physician assistant and who does not engage in active practice as a physician assistant in the state of Kansas. An inactive*

license shall not entitle the holder to engage in active practice. The provisions of subsections (c) and (d) of this section relating to expiration, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by presenting a request required by subsection (a). The request shall be accompanied by the fee established pursuant to subsection (g).

(f) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes a written application for such license on a form provided by the board and remits the same fee required for a license established under subsection (g). The board may issue a federally active license only to a person who meets all the requirements for a license to practice as a physician assistant and who practices as a physician assistant solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies. The provisions of subsections (c) and (d) relating to expiration, renewal and reinstatement of a license shall be applicable to a federally active license issued under this subsection. Each federally active licensee may apply to engage in active practice by presenting a request required by subsection (a) of this section.

(g) The following fees shall be fixed by rules and regulations adopted by the state board of healing arts and shall be collected by the board:

- (1) For licensure any license as a physician assistant, the sum of not more than \$200;
- (2) for temporary licensure as a physician assistant, the sum of not more than \$30;
- (3) for the renewal of a license to practice as a physician assistant or a federally active license, the sum of not more than \$150;
- (4) for renewal of an inactive license, the sum of not more than \$150;
- ~~(4)~~ (5) for the late renewal of a any license as a physician assistant, the sum of not more than \$250;
- ~~(5)~~ (6) for reinstatement of a physician assistant whose license has been canceled for failure to renew, the sum of not more than \$250;
- ~~(6)~~ (7) for a certified statement from the board that a physician assistant is licensed in this state, the sum of not more than \$30; ~~and~~
- ~~(7)~~ (8) for a copy of the licensure certificate of a physician assistant, the sum of not more than \$25; and
- (9) for conversion of an inactive license to a license to actively practice as a physician assistant or a federally active license, the sum of not more than \$150.

(h) The state board of healing arts shall remit all moneys received by or for the board under the provisions of this act to the state treasurer and such money shall be deposited in the state treasury, credited to the state general fund and the healing arts fee fund and expended all in accordance with K.S.A. 65-2855 and amendments thereto.

(i) The board may promulgate all necessary rules and regulations for carrying out the provisions of this act.

Sec. 18. K.S.A. 2003 Supp. 65-2910 is hereby amended to read as follows: 65-2910. (a) The license of every licensed physical therapist and the certification of every certified physical therapist assistant shall expire on the date established by rules and regulations of the board which may provide renewal throughout the year on a continuing basis. In each case in which a license or certificate is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-2911 and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established under K.S.A. 65-2911 and amendments thereto which shall be paid not later than the expiration date of the license or certificate.

(b) The board shall require every licensed physical therapist or certified physical therapist assistant as a condition of renewal to submit with the application for a renewal evidence of satisfactory completion of a program of continuing education required by the board. The board shall establish the requirements for each such program of continuing education by rules and regulations. In establishing such requirements the board shall consider any existing programs of continuing education currently being offered to licensed physical therapists or certified physical therapist assistants.

(c) At least 30 days before the expiration of the license of a physical therapist or the certificate of a physical therapist assistant, the board shall notify the licensee or certificate

holder of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee or certificate holder fails to pay the renewal fee by the date of expiration, the licensee or certificate holder shall be given a second notice that the license or certificate has expired and the license or certificate may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license or certificate shall be canceled for failure to renew and shall be reissued only after the physical therapist or physical therapist assistant has been reinstated under subsection (d).

(d) Any licensee or certificate holder who allows the license or certificate to be canceled by failing to renew may be reinstated upon recommendation of the board, upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose licenses or certificates have been canceled for failure to renew.

(e) *There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any physical therapist who makes written application for a license as a physical therapist on a form provided by the board and remits the fee established pursuant to K.S.A. 2003 Supp. 65-2911, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license to practice as a physical therapist and who does not actively practice as a physical therapist in this state. An inactive license shall not entitle the holder to render professional services as a physical therapist. The provisions of subsections (c) and (d) relating to expiration, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by providing to the board proof that a policy of professional liability insurance will be maintained in compliance with K.S.A. 2003 Supp. 65-2920, and amendments thereto, and rules and regulations adopted by the board.*

Sec. 19. K.S.A. 65-5410 is hereby amended to read as follows: 65-5410. (a) The board may deny, refuse to renew, suspend or, revoke or limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

- (1) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;
- (2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;
- (3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant;
- (4) violating any lawful order or rule and regulation of the board; and
- (5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension or, revocation or limitation of a license or public or private censure of a licensee may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. *An application for reinstatement of a revoked license shall be accompanied by the license renewal fee and the license reinstatement fee established under K.S.A. 65-5409, and amendments thereto.*

(c) *The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for unprofessional conduct in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in*

accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 20. K.S.A. 65-5412 is hereby amended to read as follows: 65-5412. (a) Licenses issued under this act shall be effective for a period of one year and shall expire at the end of such period of time expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board, upon the payment of the license renewal fee established under K.S.A. 65-5409 and amendments thereto. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-5409, and amendments thereto. The board may establish additional requirements for licensure or registration renewal which provide evidence of continued competency. The board may provide for the late licensure or renewal of a license or registration upon the payment of a late fee established under K.S.A. 65-5409 and amendments thereto, but no such late renewal of a license or registration may be granted more than five years after its expiration.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the license has been reinstated under subsection (c).

(c) Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.

(d) A person whose license or registration is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the license or registration was suspended. If a license or registration revoked on disciplinary grounds is reinstated, the licensee or registrant, as a condition of reinstatement, shall pay the renewal fee and any late fee that may be applicable.

Sec. 21. K.S.A. 65-5510 is hereby amended to read as follows: 65-5510. (a) The board may deny, refuse to renew, suspend or, revoke or limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

- (1) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;
- (2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;
- (3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a respiratory therapist;
- (4) violating any lawful order or rule and regulation of the board; and
- (5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension or, revocation or limitation of a license or public or private censure of a licensee may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement of a revoked license shall be accompanied

by the ~~licensing~~ license renewal fee and the license reinstatement fee established under K.S.A. 65-5509 and amendments thereto.

(c) *The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for unprofessional conduct in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.*

Sec. 22. K.S.A. 65-5512 is hereby amended to read as follows: 65-5512. (a) Licenses issued under this act shall ~~be effective for a period of one year and shall expire at the end of such period of time on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board, upon the payment of the license renewal fee established under K.S.A. 65-5509 and amendments thereto. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-5509, and amendments thereto.~~ The board may establish additional requirements for license renewal which provide evidence of continued competency. ~~The board may provide for the late renewal of a license upon the payment of a late fee established under K.S.A. 65-5509 and amendments thereto, but no such late renewal of a license may be granted more than five years after its expiration.~~

(b) *At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the license has been reinstated under subsection (c).*

(c) *Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.*

~~(d) A person whose license is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the license was suspended. If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the license renewal fee and any late fee that may be applicable.~~

Sec. 23. K.S.A. 65-7208 is hereby amended to read as follows: 65-7208. (a) The board may deny, refuse to renew, suspend ~~or~~, revoke *or limit* a registration *or the registrant may be publicly or privately censured* where the registrant or applicant for registration has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

- (1) Obtaining a registration by means of fraud, misrepresentation or concealment of material facts;
- (2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;
- (3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a naturopathic doctor;
- (4) violating any lawful order or rule and regulation of the board; and
- (5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension ~~or~~, revocation *or limitation* of a registration *or public or private censure of a registrant* may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative pro-

cedure act. Upon the end of the period of time established by the board for the revocation of a registration, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement of a *revoked registration* shall be accompanied by the registration *renewal fee and the registration reinstatement fee* established under K.S.A. 65-7207 and amendments thereto.

~~(c) The provisions of this section shall take effect on and after January 1, 2003~~ *board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a registrant for unprofessional conduct in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.*

Sec. 24. K.S.A. 65-7209 is hereby amended to read as follows: 65-7209. (a) Registrations issued under this act shall ~~be effective for a period of one year and shall expire at the end of such period of time on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board, upon the payment of the registration renewal fee established under K.S.A. 65-7207 and amendments thereto. The request for renewal shall be accompanied by the registration renewal fee established pursuant to K.S.A. 65-7207, and amendments thereto.~~ The board may establish additional requirements for registration renewal which provide evidence of continued competency. The board for registration renewal shall require completion of at least 25 hours annually of continuing education approved by the board. ~~The board may provide for the late renewal of a registration upon the payment of a late fee established under K.S.A. 65-7207 and amendments thereto, but no such late renewal of a registration may be granted more than five years after its expiration.~~

(b) At least 30 days before the expiration of a registrant's registration, the board shall notify the registrant of the expiration by mail addressed to the registrant's last mailing address as noted upon the office records. If the registrant fails to pay the renewal fee by the date of expiration, the registrant shall be given a second notice that the registration has expired and the registration may be renewed only if the registration renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the registration shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the registration has been reinstated under subsection (c).

(c) Any registration canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the registration reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of registrations canceled for failure to renew.

~~(d)~~ *(d) A person whose registration is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the registration was suspended. If a registration revoked on disciplinary grounds is reinstated, the registrant, as a condition of reinstatement, shall pay the registration renewal fee and any late fee that may be applicable.*

~~(c) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 25. K.S.A. 2003 Supp. 65-2920 is hereby amended to read as follows: 65-2920. ~~A policy of Professional liability insurance approved by the commissioner of insurance and issued by an insurer duly authorized to transact business in this state~~ *coverage* shall be maintained in effect by each licensed physical therapist actively practicing in this state as a condition to rendering professional services as a physical therapist in this state. The ~~state board of healing arts~~ shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

Sec. 26. K.S.A. 65-7217 is hereby amended to read as follows: 65-7217. ~~(a) A policy of Professional liability insurance approved by the commissioner of insurance and issued by an insurer duly authorized to transact business in this state coverage shall be maintained in effect by each naturopathic doctor as a condition to rendering professional service as a naturopathic doctor in this state. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.~~

~~(b) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 27. K.S.A. 39-1504, 65-468, 65-1728, 65-2005, 65-2012, 65-28,127, 65-28a03, 65-28a10, 65-5001, 65-5410, 65-5412, 65-5510, 65-5512, 65-6119, 65-6120, 65-6123, 65-6124, 65-7208, 65-7209, 65-7217 and 72-5213 and K.S.A. 2003 Supp. 65-2891, 65-2910, 65-2920 and 65-5912 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 12, preceding “health” by inserting “the state board of healing arts; concerning”; in line 13, preceding the period, by inserting: “; relating to the supervision of physician assistants; concerning certain actions by the board and licenses issued by the board; amending K.S.A. 39-1504, 65-468, 65-1728, 65-2005, 65-2012, 65-28,127, 65-28a03, 65-28a10, 65-5001, 65-5410, 65-5412, 65-5510, 65-5512, 65-6119, 65-6120, 65-6123, 65-6124, 65-7208, 65-7209, 65-7217 and 72-5213 and K.S.A. 2003 Supp. 65-2891, 65-2910, 65-2920 and 65-5912 and repealing the existing sections”, and **HB 2813** be passed as further amended.

S Sub for Sub HB 2647 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Jordan on page 6, in line 17, by striking “shall serve without compensation” and inserting “are entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto”; in line 18, by striking all after “attending” where it appears the first time; in line 19, by striking all before “authorized” and inserting “board meetings or subcommittee meetings”

Senator Barone amended **S Sub for Sub HB 2647** on page 43, by striking all in lines 17 through 27;

And by relettering the remaining subsections accordingly;

On page 44, by striking all in lines 1 and 2;

And by relettering the remaining subsections accordingly;

Also on page 44, in line 3, by striking “bioscience company” and inserting “Kansas company conducting bioscience research and development”; in line 10, by striking “bioscience companies” and inserting “Kansas companies conducting bioscience research and development”; in line 28, by striking “bioscience companies” and inserting “Kansas companies conducting bioscience research and development”; in line 35, by striking “bioscience companies” and inserting “Kansas companies conducting bioscience research and development”; in line 40, by striking “bioscience companies” and inserting “Kansas companies conducting bioscience research and development”;

On page 45, in line 13, by striking “bioscience company” and inserting “Kansas company conducting bioscience research and development”

Senator Brownlee amended **S Sub for Sub HB 2647** on page 5, in line 2, after the period by inserting “Nonvoting members shall serve at the pleasure of the board of regents.”; in line 25, after the comma by inserting “or whenever a vacancy occurs or is announced regarding a member or members of the board representing the general public”; in line 26, after “appointed” by inserting “as described in subsections (c) and (d), except that such members shall be appointed”; in line 27, by striking “, except in” and inserting “. In”; in line 33, by striking all after the “(g)”; by striking all in lines 34 through 38; in line 39, by striking all before the “to” and inserting “Except for appointments of nonvoting members, each appointment shall be forwarded”;

On page 6, in line 1, by striking “governor” and inserting “appointing entity”; in line 3, by striking “governor” and inserting “appointing entity”; by striking all in lines 6 through 8;

And by relettering the remaining subsections accordingly;

Also on page 6, in line 9, by striking “one of their number” and inserting “a voting member”, and **S Sub for Sub HB 2647** be passed as amended.

The following amendments offered by Senator Hensley were rejected:

First Amendment: on page 39, after line 28, by inserting the following:

“(j) During the construction of any bioscience development project at least 75% of the construction jobs shall be filled by Kansas residents.”

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 14, Nays 24, Present and Passing 0, Absent or Not Voting 2.

Yeas: Barone, Betts, Clark, Downey, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Lee, Salmans, Schodorf, Steineger, Taddiken.

Nays: Adkins, Allen, Barnett, Brownlee, Brungardt, Buhler, Bunten, Corbin, Donovan, Emler, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Schmidt, Tyson, Umbarger, Vratil.

Absent or Not Voting: Teichman, Wagle.

The motion failed.

Second Amendment: on page 39, after line 28, by inserting the following:

“(j) During the construction of any bioscience development project at least 65% of the construction jobs shall be filled by Kansas residents.”

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 15, Nays 24, Present and Passing 0, Absent or Not Voting 1.

Yeas: Barone, Betts, Clark, Downey, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Lee, Salmans, Schodorf, Steineger, Taddiken, Umbarger.

Nays: Adkins, Allen, Barnett, Brownlee, Brungardt, Buhler, Bunten, Corbin, Donovan, Emler, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Schmidt, Teichman, Tyson, Vratil.

Absent or Not Voting: Wagle.

The motion failed.

S Sub for Sub HB 2777 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Schmidt on page 1, following line 19, by inserting the following:

“WHEREAS, The Kansas Court of Appeals, in *State v. McCoin*, no. 91, 039, filed March 26, 2004, has held that the decision of *State v. McAdam* will not be retroactively applied in a collateral attack of an unappealed conviction after a favorable plea agreement; and

WHEREAS, The Kansas Court of Appeals' holding in *State v. McCoin*, no. 91, 039, is consistent with the intent of the legislature that on or before the effective date of this act, any person violating the provisions of K.S.A. 65-4159, and amendments thereto, upon conviction, is guilty of a drug severity level 1 felony and that such sentence should not be reduced to violating the provisions of K.S.A. 65-4161 or 65-4163, and amendments thereto, because prior to this act, such statutes prohibited the identical conduct; and”;

On page 9, by striking all in lines 35 through 40;

And by renumbering the sections accordingly

Senator Umbarger amended the bill on page 6, in line 31, after “analog” by inserting “solely”, and **S Sub for Sub HB 2777** be passed as amended.

The committee rose and reported progress (see Committee of the Whole, afternoon session)

On motion of Senator Oleen, the Senate recessed until 3:30 p.m.

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

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Brungardt moved the Senate concur in house amendments to **H Sub for SB 136**.

H Sub For SB 136, An act concerning university and campus police officers; amending K.S.A. 21-3110, 21-3409, 21-3411 and 72-8222 and K.S.A. 2003 Supp. 21-3413, 21-3415, 22-2401a and 74-5602 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Journey, Pugh.

The Senate concurred.

Senator Morris moved the Senate concur in house amendments to **SB 312**.

SB 312, An act concerning levies on fire insurance business and the disposition of the moneys remitted therefor; relating to financial support for the state fire marshal, emergency medical services board and the fire service training program of the university of Kansas; amending K.S.A. 2003 Supp. 75-1508 and 75-1514 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle. The Senate concurred.

On motion of Senator Schmidt the Senate nonconcurred in the House amendments to **Sub SB 296** and requested a conference committee be appointed.

The President appointed Senators Schmidt, Huelskamp and Lee as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 343** and requested a conference committee be appointed.

The President appointed Senators Vratil, Allen and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Tyson the Senate nonconcurred in the House amendments to **SB 363** and requested a conference committee be appointed.

The President appointed Senators Tyson, Taddiken and Lee as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 432** and requested a conference committee be appointed.

The President appointed Senators Vratil, Pugh and Goodwin as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **Sub HB 2143**.

The President appointed Senators Donovan, Salmans and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **S Sub for HB 2352**.

The President appointed Senators Vratil, Schmidt and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **S Sub for HB 2375**.

The President appointed Senators Vratil, Schmidt and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2404**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2557**.

The President appointed Senators Tyson, Taddiken and Lee as conferees on the part of the Senate.

On motion of Senator Schmidt, the Senate acceded to the request of the House for a conference on **S Sub for HB 2593**.

The President appointed Senators Schmidt, Huelskamp and Lee as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2600**.

The President appointed Senators Allen, O'Connor and Betts as conferees on the part of the Senate.

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2604**.

The President appointed Senators Tyson, Taddiken and Lee as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2606**.

The President appointed Senators Allen, O'Connor and Betts as conferees on the part of the Senate.

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2624**.

The President appointed Senators Donovan, Salmans and Goodwin as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2641**.

The President appointed Senators Allen, O'Connor and Betts as conferees on the part of the Senate.

On motion of Senator Clark, the Senate acceded to the request of the House for a conference on **HB 2652**.

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

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2653**.

The President appointed Senators Tyson, Taddiken and Lee as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2712**.

The President appointed Senators Allen, O'Connor and Betts as conferees on the part of the Senate.

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **S Sub for Sub HB 2713**.

The President appointed Senators Brungardt, Lyon and Gilstrap as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2758**.

The President appointed Senators Allen, O'Connor and Betts as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2793**.

The President appointed Senators Allen, O'Connor and Betts as conferees on the part of the Senate.

On motion of Senator Donovan, the Senate acceded to the request of the House for a conference on **HB 2833**.

The President appointed Senators Donovan, Salmans and Goodwin as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HCR 5005**.

The President appointed Senators Allen, O'Connor and Betts as conferees on the part of the Senate.

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Emler.

On motion of Senator Emler the morning and the following afternoon reports were adopted:

Sub for SB 515 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Donovan on page 1, in line 35, by striking "system" and inserting "Kansas department of transportation"

Senator Barone moved to amend **Sub SB 515** on page 2, following line 39, by inserting:

"(d) In addition to the bonds authorized under subsection (a), if the incremental increases in the amount of federal funds estimated to be available to fund the comprehensive transportation program projects for state fiscal years 2005 through 2009 by the congressional reauthorization of the federal highway program are less than the anticipated federal receipts, the Kansas development finance authority is authorized to issue one or more series of revenue bonds pursuant to the Kansas development finance authority act, K.S.A. 74-8901 et seq., and amendments thereto. Such bonds shall be in an amount necessary to provide a deposit or deposits in a total amount not to exceed the lesser of the federal shortfall or \$90,000,000 to the state highway fund. The purpose of such bonds shall be to off-set shortfalls in anticipated federal receipts. The issuance of such bonds shall be approved by resolution of the state finance council and shall be issued in accordance with the provisions of this section.

No bonds shall be issued pursuant to this subsection prior to the review and recommendation to the state finance council of such issuance by the legislative budget committee.";

Also on page 2, in line 40, by striking "(d)" and inserting "(e)"; in line 41, by striking "(c)" and inserting ", (c) and (d)";

On page 3, in line 2, by striking "(e) No" and inserting: "(f) Except for bonds authorized under subsection (d), no"

The motion failed and the amendment was rejected.

The Committee recommended **Sub SB 515** be passed as amended.

The committee report on **HB 2004** recommending a **S Sub for HB 2004** be adopted, and the substitute bill be passed.

The following amendment offered by Senator Huelskamp to **S Sub for HB 2004** was rejected: on page 13, by striking all in lines 27 through 43;

By striking all of pages 14 and 15;

On page 16, by striking all in lines 1 through 33;

And by renumbering sections accordingly;

On page 42, in line 33, by striking "41-501,";

On page 1, in the title, in line 12, by striking "41-501,"

On motion to recommend **S Sub for HB 2004** favorably for passage, a roll call vote was requested upon the showing of five hands.

On roll call, the vote was: Yeas 33, Nays 5, Present and Passing 2, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kerr, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Betts, Buntten, Huelskamp, Jackson, Lyon.

Present and Passing: Helgerson, Lee.

The motion was adopted, and the Committee recommended **S Sub for HB 2004** favorably for passage.

SB 395 be amended by adoption of the committee amendments, be further amended by motion of Senator Steineger as amended by Senate Committee, on page 1, in line 30, before "from" by inserting "received by the city"

Senator Schmidt further amended **SB 395** as amended by Senate Committee, on page 1, after line 14, by inserting the following:

“Section 1. K.S.A. 12-195 is hereby amended to read as follows: 12-195. (a) Except as otherwise provided in K.S.A. 12-195b, 12-1774, 12-17,103 and K.S.A. 2001 Supp. 74-8924, and amendments thereto, or subsection (b), no city or county shall commit any of the funds or proceeds derived from a retailers’ sales tax as a guarantee for the payment of bonds issued by such city or county or the Kansas development finance authority.

(b) Any city or county which is the recipient of funds derived from a local option sales tax pursuant to K.S.A. 12-187 *et seq.*, and amendments thereto, is hereby authorized to issue revenue bonds to provide for the payment of all or any portion of the cost of public facilities or improvements of such city or county for which such city or county is authorized pursuant to the constitution or laws of this state to issue general obligation bonds and to pledge revenues received from countywide or city retailers’ sales taxes for the payment thereof. *All revenues received from any city or county retailers’ sales tax which has been collected and remitted to the director of taxation by a retailer from sales activity at or shipped or delivered from such retailer’s place of business which is located in the taxing jurisdiction of such city or county which has pledged such revenues for the payment of general obligation bonds issued prior to July 1, 2003, by the city or county as provided pursuant to this section, shall be remitted by the director of taxation to such city or county. Any such city or county shall notify the director of taxation in writing of the date of issuance, amount of outstanding indebtedness and the maturity date of such bonds and any further information concerning the bond issuance required by the director of taxation. The director of taxation shall commence such remittance of such city and county sales tax revenues to such city or county not sooner than 60 days after receipt of such written notice. Such remittances shall only include city and sales tax revenues received by the director of taxation after receipt of such written notice.* No such bonds shall be issued for the payment of all or any portion of the cost of any facilities or improvements to be used for commercial or retail purposes, except that such prohibition shall not apply to revenue bonds issued for the payment of the cost of constructing or improving a convention or exposition hall or center or public auditorium. In the event the governing body of a city or county proposes to issue such bonds, and the question of pledging the revenues received from the countywide or city retailers’ sales tax has not previously been submitted to and approved by the voters of the city or county, such proposition shall be published once each week for two consecutive weeks in the official city or county newspaper, as the case requires. If, within 30 days after the last publication of the proposition, a petition is filed with the county election officer signed by not less than 4% of the electors of the city or county, as the case requires, who voted for the office of secretary of state at the last preceding general election for such office requesting an election thereon, no such bonds shall be issued unless the proposition is submitted to and approved by a majority of the voters of the city or county, as the case requires, voting at an election held thereon. Any such election shall be called and held in accordance with the provisions of K.S.A. 10-120, and amendments thereto, or in accordance with the provisions of the mail ballot election act.

(1) Such bonds shall be authorized by ordinance of the governing body of such city or resolution of the governing body of such county. The bonds may be issued as registered bonds or coupon bonds, payable to bearer, and, if coupon bonds, may be registrable as to principal only or as to principal and interest, and may be made exchangeable for bonds of another denomination or in another form. The bonds may be in such form and denominations, may have such date or dates, may be stated to mature at such time or times, may bear interest payable at such times and at such rate or rates, may be payable at such places within or without the state, may be subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the city or county shall determine. The bonds shall have all the qualities of and shall be deemed to be negotiable instruments under the laws of the state of Kansas. The authorizing ordinance or resolution may contain any other terms, covenants and conditions that the city or county deems reasonable and desirable, including without limitation those pertaining to the maintenance of various funds and reserves, the nature and extent of any security for payment of the bonds, the custody and application of the proceeds of the bonds, the collection, transfer and disposition of sales tax revenues, the investing of bond proceeds or any funds pledged to the

repayment of the bonds, and the rights, duties and obligations of the city or county and the owners of the bonds.

(2) The authorizing ordinance or resolution may provide for the execution of a trust indenture between the city or county and any financial institution within or without the state of Kansas. The trust indenture may contain any terms, covenants and conditions that are deemed desirable by the city or county.

(3) Any authorizing ordinance or resolution and trust indenture relating to the issuance of and security for the bonds shall constitute a contract between the city or county and the owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements and obligations of the city or county may be enforced by mandamus or other appropriate proceeding at law or in equity. The pledge of revenues made by the city or county shall be valid and binding from the time when such pledge is made and the revenues so pledged and thereafter received by the city or county shall immediately be subject to the lien of such pledge without such physical delivery thereof or further act on the part of the city or county, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the issuer, irrespective of whether such parties have notice thereof. Neither the authorizing ordinance or resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the city or county.

(4) The revenue bonds may be sold in such manner, either at public or private sale, and upon such terms as the city or county shall determine to be reasonable, including sale at discount. It shall be plainly stated on the face of each such bond that it has been issued under this act, that the bonds shall be special obligations of the city or county, payable solely and only from the revenues pledged to the payment of the bonds and that in no event, shall the bonds constitute an indebtedness of the state of Kansas or the city or county for which the faith and credit of the state of Kansas or city or county is pledged.

(5) Any bonds issued under the provisions of this section and the interest thereon, shall be exempt from all taxes levied by the state of Kansas, or any political or taxing subdivision thereof, except inheritance taxes.

(6) Bonds may be issued for the purpose of refunding, either at maturity or in advance of maturity, any bonds issued under this section. Such refunding bonds may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may either be applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or investments for the retirement of the bonds being refunded, as shall be specified by the city or county and the authorizing ordinance or resolution or trust indenture securing such refunding bonds. The authorizing ordinance or resolution or trust indenture securing the refunding bonds may provide that the refunding bonds shall have the same security for their payment as provided for the bonds being refunded. Refunding bonds shall be sold and secured in accordance with the provisions of this act pertaining to the sale and security of the bonds.

(7) Bonds issued under the provisions of this act shall be eligible to secure the deposit of public funds under article 14 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

(8) Bonds issued under the provisions of this act shall be in addition to and not subject to any statutory limitation of bonded indebtedness imposed on such city or county.”;

And by renumbering sections accordingly;

On page 4, in line 40, before “K.S.A.” by inserting “K.S.A. 12-195 and”; also in line 40, by striking “is” and inserting “are”;

On page 1, in the title, in line 10, after “concerning” by inserting “general and”; in line 11, by striking “payment sources;”; also in line 11, after “amending” by inserting “K.S.A. 12-195 and”; in line 12, by striking “section” and inserting “sections”

Senator Brownlee further amended **SB 395** as amended by Senate Committee, on page 1, after line 14 by inserting the following:

Section 1. K.S.A. 2003 Supp. 12-189 is hereby amended to read as follows: 12-189. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class A, class B or class C city retailers’ sales tax shall be fixed in

the amount of .25%, .5%, .75% or 1% which amount shall be determined by the governing body of the city. Except as otherwise provided by paragraph (2) of subsection (a) of K.S.A. 12-187, and amendments thereto, the rate of any class D city retailers' sales tax shall be fixed in the amount of .10%, .25%, .5%, .75%, 1%, 1.125%, 1.25%, 1.5% or 1.75%. The rate of any countywide retailers' sales tax shall be fixed in an amount of either .25%, .5%, .75% or 1% which amount shall be determined by the board of county commissioners, except that:

(a) The board of county commissioners of Wabaunsee county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%; the board of county commissioners of Osage county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25% or 1.5%; the board of county commissioners of Cherokee, Crawford, Ford, Saline, Seward or Wyandotte county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, the board of county commissioners of Atchison county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5% or 1.75% and the board of county commissioners of Anderson, Barton, Jefferson or Ottawa county, for the purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(b) the board of county commissioners of Jackson county, for the purposes of paragraph (3) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 2%;

(c) the boards of county commissioners of Finney and Ford counties, for the purposes of paragraph (4) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at .25%;

(d) the board of county commissioners of any county for the purposes of paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at a percentage which is equal to the sum of the rate allowed to be imposed by a board of county commissioners on the effective date of this act plus .25%, .5%, .75% or 1%, as the case requires;

(e) the board of county commissioners of Dickinson county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, and the board of county commissioners of Miami county, for the purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%, 1.5%, 1.75% or 2%;

(f) the board of county commissioners of Sherman county, for the purposes of paragraph (8) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%, 1.75% or 2%;

(g) the board of county commissioners of Russell county for the purposes of paragraph (9) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5%;

(h) the board of county commissioners of Franklin county, for the purposes of paragraph (10) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.75%;

(i) the board of county commissioners of Douglas county, for the purposes of paragraph (11) of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at 1.25%;

or

(j) the board of county commissioners of Jackson county, for the purposes of subsection (b)(13) of K.S.A. 12-187 and amendments thereto, may fix such rate at 1.4%.

Any county or city levying a retailers' sales tax is hereby prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. Except as otherwise specifically provided in K.S.A. 12-189a, and amendments thereto, such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers' sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers' sales tax shall apply to such local sales tax insofar as such laws and rules and regulations may be made applicable. The state director of taxation is hereby authorized to administer, enforce and collect such local sales taxes and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement thereof.

Upon receipt of a certified copy of an ordinance or resolution authorizing the levy of a local retailers' sales tax, the director of taxation shall cause such taxes to be collected within

or without the boundaries of such taxing subdivision at the same time and in the same manner provided for the collection of the state retailers' sales tax. Such copy shall be submitted to the director of taxation within 30 days after adoption of any such ordinance or resolution. All moneys collected by the director of taxation under the provisions of this section shall be credited to a county and city retailers' sales tax fund which fund is hereby established in the state treasury. Any refund due on any county or city retailers' sales tax collected pursuant to this act shall be paid out of the sales tax refund fund and reimbursed by the director of taxation from collections of local retailers' sales tax revenue. Except for local retailers' sales tax revenue required to be deposited in the redevelopment bond fund established under K.S.A. 74-8927, and amendments thereto, all local retailers' sales tax revenue collected within any county or city pursuant to this act shall be apportioned and remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such county or city.

Revenue that is received from the imposition of a local retailers' sales tax which exceeds the amount of revenue required to pay the costs of a special project for which such revenue was pledged shall be credited to the city or county general fund, as the case requires.

The director of taxation shall provide, upon request by a city or county clerk or treasurer of any city or county levying a local retailers' sales tax, monthly reports identifying each retailer ~~having a place of doing business in such city or county or making taxable sales sourced to such city or county~~, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month and identifying each business location maintained by the retailer ~~within such city or county and such retailer's sales or use tax registration or account number~~. Such report shall be made available to the clerk or treasurer of such city or county within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any city or county pursuant to this section shall be confidential, and it shall be unlawful for any officer or employee of such city or county to divulge any such information in any manner. Any violation of this paragraph by a city or county officer or employee is a class B misdemeanor, and such officer or employee shall be dismissed from office.

Sec. 2. K.S.A. 12-1771 is hereby amended to read as follows: 12-1771. (a) *Resolution procedure for a redevelopment district*. Any city proposing to establish a redevelopment district within an eligible area shall adopt a resolution stating that the city is considering the establishment of a redevelopment district. Such resolution shall:

- (1) Give notice that a public hearing will be held to consider the establishment of a redevelopment district and fix the date, hour and place of such public hearing;
- (2) describe the proposed boundaries of the redevelopment district;
- (3) describe the district plan;
- (4) state that a description and map of the proposed redevelopment district are available for inspection at a time and place designated;
- (5) state that the governing body will consider findings necessary for the establishment of a redevelopment district.

Notice shall be given as provided in subsection (b) of K.S.A. 12-1772, and amendments thereto.

(b) *Posthearing procedure*. Upon the conclusion of the public hearing, the governing body may pass an ordinance. Such ordinance shall: (1) Make a finding that: (A) The redevelopment district proposed to be developed is an eligible area; and (B) the conservation, development or redevelopment of such area is necessary to promote the general and economic welfare of the city; (2) contain the district plan as approved; and (3) contain the legal description of the redevelopment district and may establish the redevelopment district. Such ordinance shall contain a district plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area. The boundaries of such district shall not include any area not designated in the notice required by subsection (a).

(c) The governing body of a city may establish a redevelopment district within that city. Such city may establish a district inclusive of land outside the boundaries of the city upon

written consent of the board of county commissioners. Prior to providing written consent, the board of county commissioners shall be subject to the same procedure for public notice and hearing as is required of a city pursuant to subsection (a) for the establishment of a redevelopment district. One or more redevelopment projects may be undertaken by a city within a redevelopment district after such redevelopment district has been established in the manner provided by this section.

(d) No privately owned property subject to ad valorem taxes shall be acquired and redeveloped under the provisions of K.S.A. 12-1770 *et seq.*, and amendments thereto, if the board of county commissioners or the board of education levying taxes on such property determines by resolution adopted within 30 days following the conclusion of the hearing for the establishment of the redevelopment district required by subsection (b) that the proposed redevelopment district will have an adverse effect on such county or school district. The board of county commissioners or board of education shall deliver a copy of such resolution to the city. The city shall within 30 days of receipt of such resolution pass an ordinance terminating the redevelopment district.

(e) *Addition to area; substantial change.* Any addition of area to the redevelopment district or any substantial change as defined in K.S.A. 12-1770a, and amendments thereto, to the district plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the district.

(f) Any addition of any area to the redevelopment district shall be subject to the same procedure for public notice and hearing as is required for the establishment of the redevelopment district. The base year assessed valuation of the redevelopment district following the addition of area shall be revised to reflect the base year assessed valuation of the original area and the added area as of the date of the original establishment of the redevelopment district.

(g) A city may remove real property from a redevelopment district by an ordinance of the governing body. If more than a de minimus amount of real property is removed from a redevelopment district, the base year assessed valuation of the redevelopment district shall be revised to reflect the base year assessed valuation of the remaining real property as of the date of the original establishment of the redevelopment district.

(h) A city may divide the real property in a redevelopment district, including real property in different redevelopment project areas within a redevelopment district, into separate redevelopment districts. The base year assessed valuation of each resulting redevelopment district following such division of real property shall be revised to reflect the base year assessed valuation of the area of each resulting redevelopment district as of the date of the original establishment of the redevelopment district. Any division of real property within a redevelopment district into more than one redevelopment district shall be subject to the same procedure or public notice and hearing as is required for the establishment of the redevelopment district.

(i) If a city has undertaken a redevelopment project within a redevelopment district, and either the city wishes to subsequently remove more than a de minimus amount of real property from the redevelopment district or the city wishes to subsequently divide the real property in the redevelopment district into more than one redevelopment district, then prior to any such removal or division the city must provide a feasibility study which shows that the tax increment revenue from the resulting redevelopment district within which the redevelopment project is located is expected to be sufficient to pay the redevelopment project costs.

(j) Removal of real property from one redevelopment district and addition of all or a portion of that real property to another redevelopment district may be accomplished by the adoption of an ordinance and in such event the determination of the existence or nonexistence of an adverse effect on the county or school district under subsection (d) shall apply to both such removal and such addition of real property to a redevelopment district.

(k) *Any person, as defined at K.S.A. 79-3602, and amendments thereto, is hereby prohibited from locating any office, plant, warehouse, store or other facility within a redevelopment district or otherwise doing business in a redevelopment district, being included in any redevelopment project, or otherwise receiving any direct or indirect benefits from any improvements financed by any special obligation bonds issued under the provisions of this act,*

unless such person doing business in this state as well as any other person doing business in this state in a substantial ownership relationship with such person, as defined in K.S.A. 79-3702, and amendments thereto, shall agree to register as a retailer under K.S.A. 79-3608, and amendments thereto, as of the date any business is commenced in this state and collect, report and remit all applicable state and local retailer's sales and compensating use taxes on retail sales of tangible personal property or services made in this state or on retail sales of tangible personal property or services shipped or delivered into this state directly or by any agent, common carrier or otherwise, from any location outside this state for use, storage or consumption in this state. If any person located in a redevelopment district engaging in the business of selling tangible personal property at retail or rendering or furnishing services taxable under the provisions of the Kansas retailers' sales tax act, or any other person in a substantial ownership relationship with such person, has failed to register as a retailer and collect, report and remit all applicable state and local retailer's sales and compensating use taxes on retail sales of tangible personal property or services made in this state or on retail sales of tangible personal property or services shipped or delivered into this state directly or by any agent, common carrier or otherwise, from any location outside this state, then such person located in a redevelopment district shall be liable to the state for the fair market value of any direct or indirect benefits received from any improvements financed by any special obligation bonds issued under the provisions of this act.

Sec. 3. K.S.A. 12-1771a is hereby amended to read as follows: 12-1771a. (a) The governing body of a city may establish an increment in ad valorem taxes using the procedure set forth in subsection (b) for projects that are initiated upon a finding that the area is a blighted area as defined under K.S.A. 12-1770a, and amendments thereto, when the following conditions exist:

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

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

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

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

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

(c) The budget that establishes the yearly environmental increment shall be certified by the city to the county clerk and county treasurer no later than August 25th, preceding the calendar year for which the budget is being set. Funds derived from an environmental increment established by this section and interest on all funds derived from an environ-

mental increment established by this section may be used only for projects involving the investigation and remediation of contamination in the district.

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

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

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

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

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

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

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

(k) *Any person, as defined at K.S.A. 79-3602, and amendments thereto, is hereby prohibited from locating any office, plant, warehouse, store or other facility within a redevelopment district or otherwise doing business in a redevelopment district, being included in any redevelopment project, or otherwise receiving any direct or indirect benefits from any improvements financed by any special obligation bonds issued under the provisions of this act, unless such person doing business in this state as well as any other person doing business in this state in a substantial ownership relationship with such person, as defined in K.S.A. 79-3702, and amendments thereto, shall agree to register as a retailer under K.S.A. 79-3608, and amendments thereto, as of the date any business is commenced in this state and collect, report and remit all applicable state and local retailer's sales and compensating use taxes on*

retail sales of tangible personal property or services made in this state or on retail sales of tangible personal property or services shipped or delivered into this state directly or by any agent, common carrier or otherwise, from any location outside this state for use, storage or consumption in this state. If any person located in a redevelopment district engaging in the business of selling tangible personal property at retail or rendering or furnishing services taxable under the provisions of the Kansas retailers' sales tax act, or any other person in a substantial ownership relationship with such person, has failed to register as a retailer and collect, report and remit all applicable state and local retailer's sales and compensating use taxes on retail sales of tangible personal property or services made in this state or on retail sales of tangible personal property or services shipped or delivered into this state directly or by any agent, common carrier or otherwise, from any location outside this state, then such person located in a redevelopment district shall be liable to the state for the fair market value of any direct or indirect benefits received from any improvements financed by any special obligation bonds issued under the provisions of this act.

Sec. 4. K.S.A. 2003 Supp. 12-1771b is hereby amended to read as follows: 12-1771b. (a) The boundaries of any redevelopment district in a major tourism area including an auto race track facility located in Wyandotte county, shall, without regard to that portion of the district pertaining to the auto race track facility, be as follows: Beginning at the intersection of Interstate 70 and Interstate 435; West along Interstate 70 to 118th Street; North along 118th Street to State Avenue; Northeasterly along proposed relocated State Avenue to 110th Street; North along 110th Street to Parallel Parkway; East along Parallel Parkway to Interstate 435; South along Interstate 435 to Interstate 70.

(b) Any major tourism area may include an additional area not exceeding 400 acres of additional property, excluding roads and highways, in addition to the property necessary for the auto race track facility upon a finding by the governor that the development plan and each project within such additional area will enhance the major tourism area. For the development of each project within such additional area the city shall select qualified developers pursuant to a request for proposals in accordance with written official procedures approved by the governing body of the city. Any project within such additional area that is financed in whole or in part by special obligation bonds payable from revenues derived from subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto, shall not be entitled to any real property tax abatements or the revenues described in K.S.A. 12-1775, and amendments thereto. Any project within such additional area must be approved by the governor and construction must be commenced by July 1, 2002. The city shall prepare and submit annually to the governor, the secretary of commerce and the legislature by each October 1, commencing October 1, 1999, and continuing until October 1, 2002, a report describing the status of any projects within such additional area. Any business located in Kansas within 50 miles of a major tourism area that relocates into a major tourism area shall not receive any of the benefits of K.S.A. 12-1770 *et seq.*, and amendments thereto.

(c) If a city determines that revenues from sources other than property taxes will be sufficient to pay any special obligation bonds issued to finance a redevelopment project for an auto race track facility as described in subsection (a) of K.S.A. 12-1770a, and amendments thereto, and the secretary of commerce makes a finding that such project will create a major tourism area pursuant to subsection (n) of K.S.A. 12-1770a, and amendments thereto, all real and personal property, constituting an auto race track facility described in subsection (a) of K.S.A. 12-1770a, and amendments thereto, in such redevelopment district shall be exempt from property taxation for a period ending on the earlier of (1) the date which is 30 years after the date of the finding by the secretary of commerce with respect to such major tourism area; or (2) the date on which no such special obligation bonds issued to finance such auto race track facility in a major tourism area remain outstanding.

(d) The city which is authorized to issue bonds pursuant to the provisions of K.S.A. 12-1770 *et seq.* in order to finance a redevelopment project in a major tourism area as defined by K.S.A. 12-1770a, and amendments thereto, shall obtain underwriting services required by the city for the issuance of such bonds pursuant to written proposals received in accordance with this section.

(e) Each city which is authorized to issue such bonds shall establish written official procedures for obtaining underwriting services required for the issuance of such bonds, in-

cluding specifications for requests for proposals and criteria for evaluation of proposals on a competitive basis. The proposal evaluation criteria shall include factors based on cost, capacity to provide the required services, qualifications and experience.

(f) Prior to the issuance of any such bonds to finance a redevelopment project in a major tourism area after the effective date of this act, the city shall publish notice of a request for proposals to provide the underwriting services that are required by the city with regard to the proposed bond issuance and shall mail requests for proposals to qualified interested parties upon request for such notice. The city shall award contracts for such underwriting services from the proposals received in accordance with the procedures and evaluation criteria adopted by the city for such purpose. A city shall publish such notice in the official newspaper of the city.

(g) A redevelopment project in a major tourism area for an auto race track facility, shall be completed within 30 years from the date the secretary makes the finding that the redevelopment project will create a major tourism area pursuant to subsection (n) of K.S.A. 12-1770a, and amendments thereto.

(h) The maximum maturity on bonds issued to finance projects pursuant to this act shall not exceed 20 years except that: (1) Such maximum period of special obligation bonds not payable from revenues described by subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto, issued to finance an auto race track facility shall not exceed 30 years; and (2) such maximum period, if the governor determines and makes and submits a finding to the speaker of the house of representatives and the president of the senate that a maturity greater than 20 years, but in no event exceeding 30 years, is necessary for the economic feasibility of the financing of an auto race track facility with special obligation bonds payable primarily from revenues described by subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto, may be extended in accordance with such determination and finding.

(i) Any person, as defined at K.S.A. 79-3602, and amendments thereto, is hereby prohibited from locating any office, plant, warehouse, store or other facility within a redevelopment district or otherwise doing business in a redevelopment district, being included in any redevelopment project, or otherwise receiving any direct or indirect benefits from any improvements financed by any special obligation bonds issued under the provisions of this act, unless such person doing business in this state as well as any other person doing business in this state in a substantial ownership relationship with such person, as defined in K.S.A. 79-3702, and amendments thereto, shall agree to register as a retailer under K.S.A. 79-3608, and amendments thereto, as of the date any business is commenced in this state and collect, report and remit all applicable state and local retailer's sales and compensating use taxes on retail sales of tangible personal property or services made in this state or on retail sales of tangible personal property or services shipped or delivered into this state directly or by any agent, common carrier or otherwise, from any location outside this state for use, storage or consumption in this state. If any person located in a redevelopment district engaging in the business of selling tangible personal property at retail or rendering or furnishing services taxable under the provisions of the Kansas retailers' sales tax act, or any other person in a substantial ownership relationship with such person, has failed to register as a retailer and collect, report and remit all applicable state and local retailer's sales and compensating use taxes on retail sales of tangible personal property or services made in this state or on retail sales of tangible personal property or services shipped or delivered into this state directly or by any agent, common carrier or otherwise, from any location outside this state, then such person located in a redevelopment district shall be liable to the state for the fair market value of any direct or indirect benefits received from any improvements financed by any special obligation bonds issued under the provisions of this act.”;

And by renumbering the remaining sections accordingly;

On page 4, after line 39 by inserting the following:

Sec. 6. K.S.A. 2003 Supp. 75-5133 is hereby amended to read as follows: 75-5133. (a) Except as otherwise more specifically provided by law, all information received by the secretary of revenue, the director of taxation or the director of alcoholic beverage control from ~~applications for licensure or registration made or returns or, reports, license applications or registration documents made or filed~~ under the provisions of any law imposing any sales, use or other excise tax administered by the secretary of revenue, the director of taxation, or

the director of alcoholic beverage control, or from any investigation conducted under such provisions, shall be confidential, and it shall be unlawful for any officer or employee of the department of revenue to divulge any such information except in accordance with other provisions of law respecting the enforcement and collection of such tax, in accordance with proper judicial order ~~and~~ or as provided in K.S.A. 74-2424, and amendments thereto.

(b) ~~Nothing in this section shall be construed to prohibit the publication of The secretary of revenue or the secretary's designee may:~~

(1) ~~Release information which appears on a sales, use or other excise tax license certificate issued by the department, except that the department shall not publicly disclose the license number issued by the department. The department may release the status of a license but shall not disclose any further details concerning the status;~~

(2) ~~publish statistical reports showing state or local tax revenues or distributions by city, county or number and types of businesses. The secretary of revenue or the secretary's designee may release other statistics, so classified as to prevent identification of particular reports or returns and the items thereof; or;~~

(3) ~~allow the inspection of returns by the attorney general. Nothing in this section shall prohibit or the attorney general's designee;~~

(4) ~~provide the post auditor from access to all such excise tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106, and amendments thereto. Nothing in this section shall be construed to prohibit the disclosure of;~~

(5) ~~disclose taxpayer information from excise tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;~~

~~(c) Notwithstanding the foregoing provisions of this section, the director of taxation may provide: (1) Such;~~

(6) ~~provide information from returns and reports filed under article 42 of chapter 79 of the Kansas Statutes Annotated to county appraisers as is necessary to insure proper valuations of property. Information from such returns and reports may also be exchanged with any other state agency administering and collecting conservation or other taxes and fees imposed on or measured by mineral production; and (2) such~~

(7) ~~provide, upon request by a city or county clerk or treasurer of any city or county receiving distributions from a local excise tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month, and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number. City or county clerks or treasurers may release this information to staff members within their respective offices for the sole purpose of verifying distributions or preparing revenue projections;~~

(8) ~~provide information from returns and applications for registration filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-3601, and amendments thereto, to a city or county treasurer or clerk to explain the basis of statistics contained in reports required provided by K.S.A. 12-189, and amendments thereto, 12-1694, and amendments thereto, and 12-1698, and amendments thereto.~~

~~(d) Nothing in this section shall prohibit the disclosure of subsection (b)(7);~~

(9) ~~disclose the following oil and gas production statistics received by the department of revenue in accordance with K.S.A. 79-4216 et seq. and amendments thereto: Volumes of production by well name, well number, operator's name and identification number assigned by the state corporation commission, lease name, leasehold property description, county of production or zone of production, name of purchaser and purchaser's tax identification number assigned by the department of revenue, name of transporter, field code number or lease code, tax period, exempt production volumes by well name or lease, or any combination of this information;~~

~~(e);~~

(10) ~~release or publish liquor brand registration information provided by suppliers, farm wineries and microbreweries in accordance with the liquor control act. The information to be released is limited to: Item number, universal numeric code assigned by the distilled~~

spirits council of the United States (UNIMERC), type status, product description, alcohol percentage, selling units, unit size, unit of measurement, supplier number, supplier name, distributor number and distributor name;

(11) release or publish liquor license information provided by liquor licensees, distributors, suppliers, farm wineries and microbreweries in accordance with the liquor control act. The information to be released is limited to: County name, owner, business name, address, license type, license number, license expiration date and the process agent contact information;

(12) release or publish cigarette and tobacco license information obtained from cigarette and tobacco licensees in accordance with the Kansas cigarette and tobacco products act. The information to be released is limited to: County name, owner, business name, address, license type and license number;

(13) provide environmental surcharge or solvent fee, or both, information from returns and applications for registration filed pursuant to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary of health and environment or the secretary's designee for the sole purpose of ensuring that retailers collect the environmental surcharge tax or solvent fee, or both;

(14) provide water protection fee information from returns and applications for registration filed pursuant to K.S.A. 82a-954, and amendments thereto, to the secretary of the state board of agriculture or the secretary's designee and the secretary of the Kansas water office or the secretary's designee for the sole purpose of verifying revenues deposited to the state water plan fund;

(15) provide to the secretary of commerce specific taxpayer information relevant to any enterprise zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606, and amendments thereto, sought by such taxpayer; and

(16) disclose specific taxpayer information to the governor, secretary of commerce or any state senator or representative if the secretary determines that such information would be relevant to determining the fiscal impact of any introduced legislative proposal. The confidentiality of such information shall be protected and any discussion involving such specific taxpayer information by a legislative body shall be prohibited.

(c) Any person receiving any information under the provisions of subsection (b), ~~(c)~~ or ~~(d)~~ shall be subject to the confidentiality provisions of subsection (a) and to the penalty provisions of subsection ~~(d)~~.

~~(d)~~ Any violation of this section shall be a class B, nonperson misdemeanor, and if the offender is an officer or employee of this state, such officer or employee shall be dismissed from office.”;

And by renumbering the remaining sections accordingly;

Also on page 4, in line 40, after “K.S.A.” by inserting “12-1771 and 12-1771a and K.S.A.”; also in line 40, after “Supp.” by inserting “12-189, 12-1771b,”; also in line 40, by striking “is” and inserting “and 75-5133 are”;

Also on page 1, in the title, in line 10, by striking “special obligation bonds” and inserting “redevelopment districts;”; in line 11, after the semicolon where it appears the second time by inserting “confidentiality of information; disclosure;”; also in line 11, after “amending” by inserting “K.S.A. 12-1771 and 12-1771a and”; also in line 11, after “Supp.” by inserting “12-189, 12-1771b,”; also in line 11, after “12-1774” by inserting “and 75-5133”; in line 12, by striking “section” and inserting “sections”

Senator Jackson moved to amend **SB 395** as amended by Senate Committee, on page 4, after line 39, by inserting the following:

“Sec. 2. K.S.A. 2003 Supp. 12-191 is hereby amended to read as follows: 12-191. All retail transactions consummated within a county or city having a retail sales tax, which transactions are subject to the Kansas retailers’ sales tax, shall also be subject to such county or city retail sales tax. Except as hereinafter provided, all retail sales, for the purpose of this act, shall be considered to have been consummated: (1) Commencing on the effective date of this act and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state, remote sellers lacking physical presence in this state to collect and remit state and local sales or use taxes, at the place of business of the retailer. During such time period, retail sales involving the use, consumption, or furnishing of gas, water, electricity and heat, for the purposes of this

act, shall be considered to have been consummated at the situs of the user or recipient thereof, and retail sales involving the use or furnishing of telephone service or services taxed under subsection (k) of K.S.A. 79-3603, and amendments thereto, shall be considered to have been consummated at the situs of the subscriber billed therefor; retail sales involving the leasing of telecommunication or data processing equipment commonly used in connection with telephone services shall be considered to have been consummated at the situs of the lessee; and retail sales involving the furnishing of services taxable under subsection (p), (q) and (r) of K.S.A. 79-3603, and amendments thereto, pursuant to a contract under which the sale of such services and the furnishing of tangible personal property exceeds \$10,000 per contract per contractor shall be considered to have been consummated at the situs where such services are performed; (2) on and after the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state, remote sellers lacking physical presence in this state to collect and remit state and local sales or use taxes, at the location determined by the sourcing rules as provided in K.S.A. 2003 Supp. 79-3670, 79-3671, 79-3672 and 79-3673, and amendments thereto. The retail sales or transfer of watercraft, modular homes, manufactured homes or mobile homes, shall be considered consummated at the place of business of the retailer and sourced to such location. The retail sale, excluding the lease or rental, of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment, as defined in subsection (d) of K.S.A. 2003 Supp. 79-3670, and amendments thereto, shall be considered consummated at the place of business of the retailer and sourced to such location.

The isolated or occasional sale of any motor vehicle or trailer shall be considered consummated at the taxing jurisdiction where the sale is made. If the sale negotiations occurred in different cities or counties, the situs of the sale for local sales tax purposes shall be the place where the motor vehicle or trailer was kept at the time negotiations were first entered into. In the event the place of business of a retailer is doubtful the place or places at which the retail sales are consummated for the purposes of this act shall be determined under rules and regulations adopted by the secretary of revenue which rules and regulations shall be considered with state and federal law insofar as applicable. The director of taxation is hereby authorized to request and receive from any retailer or from any city or county levying the tax such information as may be reasonably necessary to determine the liability of retailers for any county or city sales tax. The collection of any sales tax of a county or city approved at any election shall commence on the first day of the calendar quarter next following the 90th day after the date that the city or county has provided written notice to the director of taxation of the election authorizing the levy of such tax. The collection of any such sales tax applicable to printed catalog purchases wherein the purchaser computed the tax based upon local tax rates published in the catalog, shall not commence until the first day of the calendar quarter next following the 150th day after the date that the city or county has provided written notice to the director of taxation of the election authorizing the levy of such tax. The director of taxation shall provide notice to sellers of such taxes within 30 days after receiving such notice from the city or county.

A city retailers' sales tax shall not become effective within any area annexed by a city levying such tax until the first day of the calendar quarter next following the 90th day after the date that the governing body of such city provided the state department of revenue with a certified copy of the annexation ordinance and a map of the city detailing the annexed area. The director of taxation shall provide notice to sellers of such tax within 30 days after receiving such notice from the city or county.

Whenever any sales tax, imposed by any city or county under the provisions of this act, shall become effective, at any time prior to the time that revenue derived therefrom may be budgeted for expenditure in such year, such revenue shall be credited to the funds of the taxing subdivision or subdivisions and shall be carried forward to the credit of such funds for the ensuing budget year in the manner provided for carrying forward balances remaining in such funds at the end of a budget year.

Sec. 3. K.S.A. 2003 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3% on and after July 1,

2002, and before July 1, ~~2004, 5.2% on and after July 1, 2004, and before July 1, 2005~~ 2006, and 5% on and after July 1, ~~2005~~ 2006, and, within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

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

(b) (1) the gross receipts from intrastate telephone or telegraph services; (2) the gross receipts received from the sale of interstate telephone or telegraph services, which (A) originate within this state and terminate outside the state and are billed to a customer's telephone number or account in this state; or (B) originate outside this state and terminate within this state and are billed to a customer's telephone number or account in this state except that the sale of interstate telephone or telegraph service does not include: (A) Any interstate incoming or outgoing wide area telephone service or wide area transmission type service which entitles the subscriber to make or receive an unlimited number of communications to or from persons having telephone service in a specified area which is outside the state in which the station provided this service is located; (B) any interstate private communications service to the persons contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges; (C) any value-added nonvoice service in which computer processing applications are used to act on the form, content, code or protocol of the information to be transmitted; (D) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (E) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001; and (3) the gross receipts from the provision of services taxable under this subsection which are billed on a combined basis with nontaxable services, shall be accounted for and the tax remitted as follows: The taxable portion of the selling price of those combined services shall include only those charges for taxable services if the selling price for the taxable services can be readily distinguishable in the retailer's books and records from the selling price for the nontaxable services. Otherwise, the gross receipts from the sale of both taxable and nontaxable services billed on a combined basis shall be deemed attributable to the taxable services included therein. Within 90 days of billing taxable services on a combined basis with nontaxable services, the retailer shall enter into a written agreement with the secretary identifying the methodology to be used in determining the taxable portion of the selling price of those combined services. The burden of proving that any receipt or charge is not taxable shall be upon the retailer. Upon request from the customer, the retailer shall disclose to the customer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on a combined basis;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

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

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

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

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501 and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

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

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

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

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

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

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

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

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

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

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

For the purposes of this subsection:

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

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

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

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

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

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

(s) the gross receipts received from the sale of computer software, the sale of the service of providing computer software other than prewritten computer software and the sale of the services of modifying, altering, updating or maintaining computer software, whether the computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services, mobile telecommunication services, beeper services and other similar services. On and after August 1, 2002, the provisions of the federal mobile telecommunications sourcing act as in effect on January 1, 2002, shall be applicable to all sales of mobile telecommunication services taxable pursuant

to this subsection. The secretary of revenue is hereby authorized and directed to perform any act deemed necessary to properly implement such provisions;

(u) the gross receipts received from the sale of prepaid calling service ~~as defined in K.S.A. 2003 Supp. 79-3673, and amendments thereto. As used in this subsection "prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;~~ and

(v) the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701, *et seq.*, and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 *et seq.*, and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 4. K.S.A. 2003 Supp. 79-3667 is hereby amended to read as follows: 79-3667. On and after the databases are developed pursuant to subsections (a), (b) and (c) of K.S.A. 2003 Supp. 79-3668 and amendments thereto and after the state has joined and become a member of the agreement, sellers and certified service providers (CSPs) are relieved from liability for state and local sales and use tax for having charged and collected the incorrect amount of sales tax resulting from the seller or certified service provider relying on erroneous data provided by the secretary on tax rates, boundaries or taxing jurisdiction assignments. If the secretary provides an address-based system for assigning taxing jurisdictions that meets the requirements developed pursuant to the federal mobile telecommunications sourcing act, no liability relief is provided to sellers or certified service providers for errors resulting from reliance on the information provided under the provisions of subsection (c) of K.S.A. 2003 Supp. 79-3668 and amendments thereto. *The provisions of this section shall not be effective for the period commencing on the effective date of this act, and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state, remote sellers lacking physical presence in this state to collect and remit state and local sales or use taxes.*

Sec. 5. K.S.A. 2003 Supp. 79-3668 is hereby amended to read as follows: 79-3668. (a) The secretary shall provide and maintain a database that describes boundary changes for all taxing jurisdictions. This database shall include a description of the change and the effective date of the change for sales and use tax purposes.

(b) The secretary shall provide and maintain a database of all sales and use tax rates for all taxing jurisdictions. For the identification of counties and cities, codes corresponding to the rates must be provided according to federal information processing standards (FIPS) as developed by the national institute of standards and technology. For the identification of all other jurisdictions, codes corresponding to the rates must be in the format determined by the secretary.

(c) The secretary must provide and maintain a database that assigns each five- and nine-digit zip code to the proper rates and taxing jurisdictions. The lowest combined tax rate imposed in the zip code area shall apply if the area includes more than one tax rate in any level of taxing jurisdiction. If a nine-digit zip code designation is not available for a street address, or if a seller is unable to determine the nine-digit zip code designation of a purchaser after exercising due diligence to determine the designation, the seller may apply the rate for the five-digit zip code area. For purposes of this section, there is a rebuttable presumption that a seller has exercised due diligence if the seller has attempted to determine the nine-digit zip code designation by utilizing software approved by the secretary that makes this designation from the street address and the five-digit zip code of the purchaser.

(d) The secretary shall participate with other member states in the development of an address-based system for assigning taxing jurisdictions. The system must meet the requirements developed pursuant to the federal mobile telecommunications sourcing act (4 U.S.C. § 119).

(e) The electronic databases provided for in subsections (a), (b), (c) and (d) shall be in downloadable format as determined by the secretary. The provisions of subsections (c) and

(d) do not apply when the purchased product is received by the purchaser at the business location of the seller.

(f) The provisions of this section shall not be effective for the period commencing on the effective date of this act, and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state, remote sellers lacking physical presence in this state to collect and remit state and local sales or use taxes.

Sec. 6. K.S.A. 2003 Supp. 79-3669 is hereby amended to read as follows: 79-3669. (a) The retail sale of a product shall be sourced in accordance with K.S.A. 2003 Supp. 79-3670 and amendments thereto. The provisions of K.S.A. 2003 Supp. 79-3670 and amendments thereto apply regardless of the characterization of a product as tangible personal property, a digital good or a service. The provisions of K.S.A. 2003 Supp. 79-3670 and amendments thereto only apply to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product. These provisions do not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

(b) K.S.A. 2003 Supp. 79-3670 and amendments thereto does not apply to sales or use taxes levied on the following: (1) The retail sale or transfer of water craft, modular homes, manufactured homes or mobile homes. The retail sale of these items shall be sourced according to K.S.A. 12-191 and amendments thereto;

(2) the retail sales, excluding lease or rental, of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment, as defined in subsection (d) of K.S.A. 2003 Supp. 79-3670 and amendments thereto. The retail sale of these items shall be sourced according to K.S.A. 12-191 and amendments thereto and the lease or rental of these items must be sourced according to subsection (c) of K.S.A. 2003 Supp. 79-3670 and amendments thereto; and

(3) telecommunications services, as set out in K.S.A. 2003 Supp. 79-3673 and amendments thereto, shall be sourced in accordance with K.S.A. 2003 Supp. 79-3673 and amendments thereto.

(c) The provisions of this section shall not be effective for the period commencing on the effective date of this act, and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state, remote sellers lacking physical presence in this state to collect and remit state and local sales or use taxes.

Sec. 7. K.S.A. 2003 Supp. 79-3670 is hereby amended to read as follows: 79-3670. (a) The retail sale, excluding lease or rental, of a product shall be sourced as follows: (1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location;

(2) when the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser, or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

(3) when subsection (a)(1) and (a)(2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(4) when subsections (a)(1), (a)(2) and (a)(3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith;

(5) when none of the previous rules of subsection (a)(1), (a)(2), (a)(3) or (a)(4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(b) The lease or rental of tangible personal property, other than property identified in subsection (c) or (d), shall be sourced as follows: (1) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (a). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls;

(2) for a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (a); and

(3) this subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(c) The lease or rental of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment, as defined in subsection (d), shall be sourced as follows: (1) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations;

(2) for a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (a); and

(3) this subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis or on the acquisition of property for lease.

(d) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (a), notwithstanding the exclusion of lease or rental in subsection (a). "Transportation equipment" means any of the following: (1) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(2) trucks and truck-tractors with a gross vehicle weight rating (GVWR) of 10,001 pounds or greater, trailers, semi-trailers or passenger buses that are: (A) Registered through the international registration plan; and

(B) operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce;

(3) aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; and

(4) containers designed for use on and component parts attached or secured on the items set forth in subsection (d)(1), (d)(2) and (d)(3).

(e) As used in this section, the terms "receive" and "receipt" mean:

(1) Taking possession of tangible personal property;

(2) making first use of services; or

(3) taking possession or making first use of digital goods, whichever comes first. The terms receive and receipt do not include possession by a shipping company on behalf of the purchaser.

(f) *The provisions of this section shall not be effective for the period commencing on the effective date of this act, and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state, remote sellers lacking physical presence in this state to collect and remit state and local sales or use taxes.*

Sec. 8. K.S.A. 2003 Supp. 79-3671 is hereby amended to read as follows: 79-3671. (a) Notwithstanding the provisions of K.S.A. 2003 Supp. 79-3670 and amendments thereto, a

business purchaser that is not a holder of a direct pay permit that knows at the time of its purchase of a digital good, computer software delivered electronically or a service that the digital good, computer software delivered electronically or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in conjunction with its purchase a multiple points of use or MPU exemption form disclosing this fact.

(b) Upon receipt of the MPU exemption form, the seller is relieved of all obligation to collect, pay or remit the applicable tax and the purchaser shall be obligated to collect, pay or remit the applicable tax on a direct pay basis.

(c) A purchaser delivering the MPU exemption form may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

(d) The MPU exemption form will remain in effect for all future sales by the seller to the purchaser, except as to the subsequent sale's specific apportionment that is governed by the principle of subsection (c) and the facts existing at the time of the sale, until it is revoked in writing.

(e) A holder of a direct pay permit shall not be required to deliver the MPU exemption form to the seller. A direct pay permit holder shall follow the provisions of subsection (c) in apportioning the tax due on a digital good or a service that will be concurrently available for use in more than one jurisdiction.

(f) The provisions of this section shall not be effective for the period commencing on the effective date of this act, and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state, remote sellers lacking physical presence in this state to collect and remit state and local sales or use taxes.

Sec. 9. K.S.A. 2003 Supp. 79-3672 is hereby amended to read as follows: 79-3672. (a) (1) Notwithstanding the provisions of K.S.A. 2003 Supp. 79-3670 and amendments thereto, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase either a direct mail form or information to show the jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of the direct mail form, the seller is relieved of all obligations to collect, pay or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A direct mail form shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(3) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.

(b) If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a direct mail form or delivery information, as required by subsection (a), the seller shall collect the tax according to subsection (a)(5) of K.S.A. 2003 Supp. 79-3670 and amendments thereto. Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

(c) If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a direct mail form or delivery information to the seller.

(d) The provisions of this section shall not be effective for the period commencing on the effective date of this act, and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state, remote sellers lacking physical presence in this state to collect and remit state and local sales or use taxes.

Sec. 10. K.S.A. 2003 Supp. 79-3673 is hereby amended to read as follows: 79-3673. (a) Except for the defined telecommunication services in subsection (c), the sale of telecommunication service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(b) Except for the defined telecommunication services in subsection (c), a sale of telecommunication services sold on a basis other than a call-by-call basis, is sourced to the customer's place of primary use.

(c) The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction as follows: (1) A sale of mobile communications services other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the mobile telecommunications sourcing act;

(2) a sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either the seller's telecommunications system, or information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and

(3) a sale of prepaid calling service is sourced in accordance with K.S.A. 2003 Supp. 79-3670 and amendments thereto, except that in the case of a sale of mobile telecommunications service that is a prepaid telecommunications service, the rule provided in subsection (a)(5) of K.S.A. 2003 Supp. 79-3670 and amendments thereto shall include as an option the location associate with the mobile telephone number.

(d) A sale of a private communication service is sourced as follows: (1) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located;

(2) service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located;

(3) service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced 50% in each level of jurisdiction in which the customer channel termination points are located; and

(4) service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

(e) As used in this section: (1) "Air-to-ground radiotelephone service" means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;

(2) "call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls;

(3) "communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

(4) "customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunication service, but this sentence only applies for the purpose of sourcing sales of telecommunications services under this section. Customer does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area;

(5) "customer channel termination point" means the location where the customer either inputs or receives the communication;

(6) "end user" means the person who utilizes the telecommunication service. In the case of an entity, end user means the individual who utilizes the services on behalf of the entity;

(7) "home service provider" means the same as that term in defined in section 124(5) of Public Law 106-252 (mobile telecommunications sourcing act);

(8) "mobile telecommunications service" means the same as that term is defined in section 124(5) of Public Law 106-252 (mobile telecommunications sourcing act);

(9) "place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile tele-

communications services, place of primary use must be within the licensed service area of the home service provider;

(10) "post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service that would be a prepaid calling service except it is not exclusively a telecommunication service;

(11) "prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

(12) "private communication service" means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations and any other associated services that are provided in connection with the use of such channel or channels; and

(13) "service address" means: (A) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) if the location in subsection (13)(A) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and

(C) if the location in subsections (13)(A) and (13)(B) are not known, the service address means the location of the customer's place of primary use.

(f) The provisions of this section shall not be effective for the period commencing on the effective date of this act, and ending on the date that legislation enacted by the United States Congress becomes effective that authorizes the secretary of revenue to require some out-of-state, remote sellers lacking physical presence in this state to collect and remit state and local sales or use taxes.

Sec. 11. K.S.A. 2003 Supp. 79-3682 is hereby amended to read as follows: 79-3682. (a) The provisions of K.S.A. 2003 Supp. 79-3666 through 79-3682 and amendments thereto shall be known and may be cited as the streamlined sales and use tax agreement conformity act.

(b) *Except as otherwise specifically provided*, the provisions of K.S.A. 2003 Supp. 79-3666 through 79-3682 shall be effective on and after July 1, 2003.;

And by renumbering sections accordingly;

Also on page 4, in line 40, after "Supp." by inserting "12-191,;" also in line 40, by striking "is" and inserting ", 79-3603, 79-3603c, 79-3667, 79-3668, 79-3669, 79-3670, 79-3671, 79-3672, 79-3673 and 79-3682 are";

On page 1, in the title, in line 10, after "concerning" by inserting "taxation; relating to"; in line 11, before "amending" by inserting "destination sourcing rules;"; also in line 11, after "Supp." by inserting "12-191,;" also in line 11, after "12-1774" by inserting ", 79-3603, 79-3667, 79-3668, 79-3669, 79-3670, 79-3671, 79-3672, 79-3673 and 79-3682"; in line 12, by striking "section." and inserting "sections; also repealing K.S.A. 2003 Supp. 79-3603c."

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 15, Nays 25, Present and Passing 0, Absent or Not Voting 0.

Yeas: Brownlee, Clark, Huelskamp, Jackson, Jordan, Journey, Lyon, O'Connor, Pugh, Salmans, Schmidt, Taddiken, Tyson, Umbarger, Wagle.

Nays: Adkins, Allen, Barnett, Barone, Betts, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Kerr, Lee, Morris, Oleen, Schodorf, Steineger, Teichman, Vratil.

The motion failed and the amendment was rejected.

The Committee recommended **SB 395** be passed as further amended.

HB 2798 be amended by adoption of the committee amendments, be further amended by motion of Senator Brungardt as amended by Senate Committee, on page 3, by striking all in lines 34 through 36 and inserting the following:

“(12) is not in contempt of court in a child support proceeding.”;

On page 8, in line 24, by striking the comma; by striking all in lines 42 and 43;

On page 9, by striking all in lines 1 through 5 and inserting the following:

“(18) any city hall.”

Senator Schmidt further amended **HB 2798** as amended by Senate Committee, on page 2, following line 17, by inserting:

“The provisions of this subsection shall take effect and be in force from and after January 1, 2005.”

Senator Kerr further amended **HB 2798** on page 8, line 14, by striking The State Capitol

Senator Oleen further amended **HB 2798** as amended by Senate Committee, on page 9, in line 7, before “Nothing”, by inserting “(a)”; in line 8, by striking “(a)” and by inserting “(1)”; in line 12, by striking “(b)” and by inserting “(2)”; in line 17, by striking the period and inserting “; or”; following line 17, by inserting:

“(3) a property owner from restricting or prohibiting in any manner persons licensed under this act from carrying a concealed weapon while on such property, provided that the premises are posted, in a manner reasonably likely to come to the attention of persons entering the property where carrying a concealed weapon is prohibited.

(b) Violation of this section is a class B misdemeanor.”;

Senator O'Connor further amended **HB 2798** as amended by Senate Committee, on page 8, by striking all in lines 23, 24 and 25; following line 25, by inserting:

“(12) any portion of a drinking establishment as defined by K.S.A. 41-2601, and amendments thereto, except that this provision shall not apply to a restaurant as defined by K.S.A. 41-2601, and amendments thereto;”; and **HB 2798** be passed as further amended.

The following amendments to **HB 2798** were rejected:

Senator Oleen moved to amend **HB 2798** as amended by Senate Committee, on page 24, following line 5, by inserting:

New Sec. 22. (a) As used in this section:

(1) “Transfer” means to sell or deliver.

(2) “Sheriff” means the sheriff of the county in which a person desiring to purchase or accept delivery of a gun resides.

(3) “Weapon” means any handgun, pistol or revolver.

(b) It shall be unlawful for any person to transfer a weapon to another person unless:

(1) (A) The transferor has received from the transferee a statement of the transferee containing the information described in subsection (d) of this section;

(B) the transferor has verified the identity of the transferee by examining the identification document received;

(C) the transferor, within one day after the transferee furnishes the statement, has provided notice of the contents of the statement to the sheriff; and

(D) the transferor, within one day after the transferee furnishes the statement, has transmitted a copy of the statement to the sheriff; and

(E) at least 5 business days have elapsed from the date the transferor furnished notice of the contents of the statement to the sheriff, during which period the transferor has not received information from the sheriff that receipt or possession of the weapon by the transferee would be in violation of federal, state or local law; or

(2) the transferor has received notice from the sheriff that the sheriff has no information indicating that receipt or possession of the weapon by the transferee would violate federal, state or local law;

(c) The sheriff to whom a transferor has provided notice pursuant to this section shall make a reasonable effort to ascertain within five business days whether receipt or possession would be in violation of the law.

(d) The statement shall contain only:

(1) The name, address and date of birth appearing on a valid identification document of the transferee containing a photograph of the transferee and a description of the identification used; and

(2) a statement that the transferee would qualify for the issuance of a license under the personal and family protection act.

(e) Violation of this section is a class A misdemeanor.”;

And by renumbering sections accordingly

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 13, Nays 26, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Betts, Brungardt, Buhler, Downey, Goodwin, Haley, Kerr, Lee, Oleen, Schodorf, Vratil.

Nays: Barone, Brownlee, Bunten, Clark, Corbin, Donovan, Emler, Gilstrap, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Present and Passing: Barnett.

The motion failed.

Senator Barnett moved to amend **HB 2798** as amended by Senate Committee, on page 1, in line 26, before “Sections” by inserting “(a)”; also in line 26, by striking “18” and inserting “6”; following line 28, by inserting:

“(b) The purpose of this act is to authorize the carrying of certain weapons for defensive, nonlethal purposes.”;

Also on page 1, by striking all in lines 29 through 43;

By striking all on pages 2 through 24 and inserting:

“New Sec. 2. As used in the personal and family protection act:

(a) “Weapon” means a stun gun or electronic weapon or device.

(b) “Person” means an individual who:

(1) Is 21 years or more of age;

(2) does not suffer from a physical infirmity which prevents the safe handling of a weapon;

(3) has never been convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a felony under the laws of this state or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a felony under the laws of this state if committed by an adult;

(4) has not been, during the five years immediately preceding the date the application is submitted: (A) A mentally ill person or involuntary patient, as defined in K.S.A. 59-2946, and amendments thereto; (B) an alcoholic, as defined in K.S.A. 65-4003, and amendments thereto; (C) a drug abuser, as defined in K.S.A. 65-5201, and amendments thereto; (D) committed for the abuse of a controlled substance; (E) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a felony or misdemeanor under the provisions of the uniform controlled substances act or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor under such act if committed by an adult; (F) committed for the abuse of alcohol; (G) convicted or placed on diversion, in this or any other jurisdiction, two or more times for an act that constitutes a violation of K.S.A. 8-1567, and amendments thereto; (H) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a domestic violence misdemeanor under article 34 or 35 of chapter 21 of the Kansas Statutes Annotated or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a domestic violence misdemeanor under article 34 or 35 of chapter 21 of the Kansas Statutes Annotated if committed by an adult; or (I) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a violation of section 12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a violation of section 12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, if committed by an adult;

(5) desires a legal means to carry a concealed weapon for lawful self-defense;

(6) has not been adjudged a disabled person under the act for obtaining a guardian or conservator, or both, or under a similar law of another state or the District of Columbia,

unless the applicant was ordered restored to capacity three or more years before the date on which the application is submitted;

(7) has not been dishonorably discharged from military service;

(8) is a citizen of the United States;

(9) is not subject to a restraining order issued under the protection from abuse act, under the protection from stalking act or pursuant to K.S.A. 60-1607, 38-1542, 38-1543 or 38-1563, and amendments thereto, or any equivalent order entered in another state or jurisdiction which is entitled to full faith and credit in Kansas;

(10) is not in arrearage in the payment of child support payments as determined by a finding or order of a court of this state or of another state or jurisdiction; and

(11) has completed successfully a weapons safety course prescribed by the manufacturer of the weapon. Such course shall comply with the provisions of section 3, and amendments thereto.

New Sec. 3. The manufacturer of a weapon sold or distributed in this state shall provide for a weapon safety course which consists of at least four hours. Such course shall include training in the safe storage of weapons, actual use of weapons and instruction in the laws of this state governing the carrying of a weapon.

New Sec. 4. For the purpose of providing self-defense and the defense of others, a person may carry, either concealed or unconcealed, a weapon.

New Sec. 5. (a) A weapon shall not be carried into:

(1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;

(2) any police, sheriff or highway patrol station;

(3) any detention facility, prison or jail;

(4) any courthouse;

(5) any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in the judge's courtroom;

(6) any polling place on the day an election is held;

(7) any meeting of the governing body of a county, city or other political or taxing subdivision of the state, or any committee or subcommittee thereof;

(8) on the state fairgrounds;

(9) the state capitol or any state office building;

(10) any athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education;

(11) any professional athletic event not related to or involving firearms;

(12) any establishment licensed to dispense alcoholic liquor or cereal malt beverage for consumption on the premises;

(13) any elementary or secondary school building or structure used for student instruction or attendance;

(14) any community college, college or university facility;

(15) any place where the carrying of firearms is prohibited by federal or state law;

(16) any child exchange and visitation center provided for in K.S.A. 75-720, and amendments thereto;

(17) any community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; mental health clinic organized pursuant to K.S.A. 65-211 et seq., and amendments thereto; psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto; or state psychiatric hospital, as follows: Larned state hospital, Osawatomie state hospital or Rainbow mental health facility; or

(18) any property or facility owned or leased by a city or county including, but not limited to, a city hall, municipal or county courthouse, parks and recreation facilities and public works buildings, provided that the premises of such buildings, parks or recreation facilities are posted, in a manner reasonably likely to come to the attention of persons entering such premises, as premises where carrying a concealed weapon is prohibited.

(b) Violation of this section is a class B misdemeanor.

New Sec. 6. Nothing in this act shall be construed to prevent:

(a) Any public or private employer from restricting or prohibiting in any manner persons licensed under this act from carrying a concealed weapon while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer; or

(b) any entity owning or operating business premises open to the public from restricting or prohibiting in any manner persons licensed under this act from carrying a concealed weapon while on such premises, provided that the premises are posted, in a manner reasonably likely to come to the attention of persons entering the premises, as premises where carrying a concealed weapon is prohibited.

(c) Violation of this section is a class B misdemeanor.

New Sec. 7. It is a class B nonperson misdemeanor for a person licensed pursuant to this act to carry a concealed weapon while under the influence of alcohol or drugs, or both.

New Sec. 8. The power to regulate all phases of the sale or possession of weapons is vested exclusively in the state. Any ordinance or resolution enacted by a city or county which is more restrictive than, in conflict with or contrary to the provisions of the personal and family protection act shall be null and void.

(b) Nothing contained in this section shall be construed as preventing any city or county from enacting ordinances or resolutions declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof, but the minimum penalty in any such ordinance or resolution shall not be less than the minimum penalty prescribed by this act for the same violation, nor shall the maximum penalty in any such ordinance or resolution exceed the maximum penalty prescribed by this act for the same violation.

Sec. 9. K.S.A. 2003 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 27174th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion

of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199 or K.S.A. 2003 Supp. 17-5909, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2003 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(33) *Counties may not exempt from or effect changes in the provisions of the personal and family protection act.*

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 10. K.S.A. 2003 Supp. 21-4201 is hereby amended to read as follows: 21-4201. (a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;

(2) carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;

(3) carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) carrying any pistol, revolver or other firearm concealed on one's person except when on the person's land or in the person's abode or fixed place of business;

(5) setting a spring gun;

(6) possessing any device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm;

(7) selling, manufacturing, purchasing, possessing or carrying a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger; or

(8) possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight.

(b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) manufacture of, transportation to, or sale of weapons to a person authorized under subsections (b)(1), (2) and (3) to possess such weapons.

(c) Subsection (a)(4) shall not apply to or affect the following:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) licensed hunters or fishermen, while engaged in hunting or fishing;

(3) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(5) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto; ~~or~~

(6) special deputy sheriffs described in K.S.A. 2003 Supp. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a and amendments thereto; *or*

(7) *retired law enforcement officers who continue satisfactory completion of annual training as required of active law enforcement officers of the agency from which such officer has retired.*

(d) Subsections (a)(1), (6) and (7) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 *et seq.* in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) Subsection (a)(8) shall not apply to a governmental laboratory or solid plastic bullets.

(f) Subsection (a)(6) shall not apply to a law enforcement officer who is:

(1) Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized, regular training;

(2) designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(6); and

(3) in possession of commercially manufactured devices which are: (A) Owned by the law enforcement agency; (B) in such officer's possession only during specific operations; and (C) approved by the bureau of alcohol, tobacco and firearms of the United States department of justice.

(g) *Subsection (a)(4) shall not apply to any person carrying a concealed weapon as authorized by the personal and family protection act.*

~~(h)~~ (h) It shall be a defense that the defendant is within an exemption.

~~(i)~~ (i) Violation of subsections (a)(1) through (a)(5) is a class A nonperson misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a severity level 9, nonperson felony.

~~(j)~~ (j) As used in this section, "throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

Sec. 11. K.S.A. 2003 Supp. 21-4201 and 19-101a are hereby repealed. Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.;

In the title, in line 19, by striking "providing for"; by striking all in lines 20, 21 and 22 and inserting "relating to the carrying of certain weapons; amending K.S.A. 2003 Supp. 19-101a and 21-4201 and repealing the existing"

Senator Vratil moved to amend **HB 2798** on page 9, line 6, by inserting (19) any hospital.

Senator Vratil moved to amend **HB 2798** on page 9, line 6, by inserting (19) any licensed child care facility.

Senator Vratil moved to amend **HB 2798** on page 9, line 6, by inserting (19) any church or other place of worship.

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 16, Nays 22, Present and Passing 2, Absent or Not Voting 0.

Yeas: Adkins, Allen, Betts, Brungardt, Bunten, Corbin, Downey, Emler, Goodwin, Haley, Hensley, Kerr, Lee, Oleen, Schodorf, Vratil.

Nays: Barone, Brownlee, Buhler, Clark, Donovan, Gilstrap, Helgerson, Huelskamp, Jackson, Jordan, Journey, Lyon, Morris, O'Connor, Pugh, Salmans, Steineger, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Present and Passing: Barnett, Schmidt.

The motion failed.

Senator Vratil moved to amend **HB 2798** on page 9, line 6, by inserting (19) any bank.

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 11, Nays 28, Present and Passing 0, Absent or Not Voting 1.

Yeas: Adkins, Allen, Barnett, Betts, Brungardt, Downey, Goodwin, Lee, Oleen, Schodorf, Vratil.

Nays: Barone, Brownlee, Buhler, Bunten, Clark, Corbin, Donovan, Emler, Gilstrap, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Absent or Not Voting: Steineger.

The motion failed.

Senator Oleen moved to amend **HB 2798** as amended by Senate Committee, on page 24, following line 5, by inserting:

“New Sec. 22. (a) As used in this section, “semiautomatic assault weapon” means a semiautomatic assault weapon as defined by 18 U.S.C. 921, as in effect on July 1, 2004.

(b) It shall be unlawful for a person to sell, transfer or possess a semiautomatic assault weapon.

The provisions of this subsection shall not apply to any person or to the sale, transfer or possession of a semiautomatic assault weapon specified in subsection (v)(1) of 18 USC 922, as in effect on July 1, 2004.

(c) Violation of this section is a class A misdemeanor.”;

And by renumbering sections accordingly

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 17, Nays 22, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Betts, Brungardt, Buhler, Bunten, Downey, Emler, Goodwin, Haley, Hensley, Kerr, Lee, Oleen, Schodorf, Taddiken, Vratil.

Nays: Barone, Brownlee, Clark, Corbin, Donovan, Gilstrap, Helgerson, Huelskamp, Jackson, Jordan, Journey, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Steineger, Teichman, Tyson, Umbarger, Wagle.

Present and Passing: Barnett.

The motion failed.

Senator Goodwin moved to amend **HB 2798**, on page 8, line 40, by inserting: Kansas Veterans Home-or

S Sub for HB 2267 be passed over and retain a place on the calendar.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **Sub SB 351; SB 395; Sub SB 515; SR 1834; S Sub for HB 2004; S Sub HB 2133, S Sub HB 2391; HB 2531, HB 2539, HB 2549, HB 2622, HB 2638; S Sub for Sub HB 2647; HB 2657, HB 2658, HB 2673, HB 2675, HB 2706, HB 2742; S Sub for Sub HB 2777; HB 2798, HB 2805, HB 2813, HB 2835, HB 2869, HB 2880; S Sub HB 2886, S Sub HB 2912** were advanced to Final Action and roll call.

Sub SB 351, An act concerning emergency medical services providers; relating to financial assistance for training and certain educational expenses; amending K.S.A. 65-6111 and K.S.A. 2003 Supp. 75-1508 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The substitute bill passed.

SB 395, An act concerning general and redevelopment districts; relating to sales tax revenue bonds; confidentiality of information; disclosure; amending K.S.A. 12-195 and K.S.A. 12-1771 and 12-1771a and K.S.A. 2003 Supp. 12-189, 12-1771b, 12-1774 and 75-5133 and repealing the existing sections.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Buhler, Bunten, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Kerr, Lee, Morris, O'Connor, Oleen, Schmidt, Schodorf, Steineger, Teichman, Umbarger, Vratil, Wagle.

Nays: Brungardt, Clark, Corbin, Huelskamp, Journey, Lyon, Pugh, Salmans, Taddiken, Tyson.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote aye on the proposed amendment to delay the implementation of the streamlined sales tax because this issue is good for the businesses of Kansas, especially small businesses, and it may be our last chance to do something positive for these businesses this session.

If revenues are ever to improve for our state in sufficient amounts to support the expenditures for the two bills we have just dealt with - education and highways - then we must grow our businesses, instead of driving up their costs or driving them out of business.

This amendment would have a positive fiscal note because sales tax would be collected for out of state deliveries under the site based sales tax method.—DAVID JACKSON

Senators Brownlee, Clark, Huelskamp, Jordan, Lyon, O'Connor, Pugh, Tyson and Taddiken request the record to show they concur with the "Explanation of Vote" offered by Senator Jackson on **SB 395**.

Sub SB 515, An act relating to the comprehensive transportation program; concerning the financing thereof; amending K.S.A. 2003 Supp. 79-3603, 79-3620, 79-3703 and 79-3710 and repealing the existing sections; also repealing K.S.A. 79-34,148 and K.S.A. 2003 Supp. 79-34,147, 79-3603c, 79-3620c and 79-3710a.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Clark, Donovan, Downey, Emler, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Journey, Kerr, Lee, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil.

Nays: Adkins, Bunten, Corbin, Gilstrap, Huelskamp, Lyon, Pugh, Steineger, Tyson, Wagle.

The substitute bill passed, as amended.

SR 1834, A resolution urging the United States Congress to reevaluate the requirements of the No Child Left Behind Act and to fund the authorized levels required by the act.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil.

Present and Passing: Wagle.

The resolution was adopted.

S Sub for HB 2004, An act concerning school districts; relating to school finance and the sources of revenue therefor; amending K.S.A. 40-2246, 72-6405, 72-6413, 72-6414, 79-32,176, 79-32,190 and 79-3705a and K.S.A. 2003 Supp. 41-311, 41-501, 41-2623, 58-3935, 58-3950, 72-6407, 79-3230, 79-32,143, 79-32,197, 79-32,206, 79-32,210, 79-3603 and 79-3609 and repealing the existing sections; also repealing K.S.A. 72-6440.

On roll call, the vote was: Yeas 15, Nays 25, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brungardt, Buhler, Emler, Jordan, Kerr, Morris, Oleen, Salmans, Schodorf, Taddiken, Umbarger, Vratil.

Nays: Barone, Betts, Brownlee, Bunten, Clark, Corbin, Donovan, Downey, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Journey, Lee, Lyon, O'Connor, Pugh, Schmidt, Steineger, Teichman, Tyson, Wagle.

A constitutional majority having failed to vote in favor of the bill, **S Sub for HB 2004** did not pass.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote aye on **S Sub for HB 2004**, not because I think it is a good bill. It is not. The Senate cannot, however, walk out of this chamber tonight with no position on education. Negative positions are easy to take. It is unfortunate that this Senate has not taken an affirmative position already. If the conference committee does not develop a better plan, my vote will be different. Tonight, however, I vote aye so that the Senate can at least conference with the House.—JAY SCOTT EMLER

Senators Adkins, Jordan and Schodorf request the record to show they concur with the "Explanation of Vote" offered by Senator Emler on **S Sub for HB 2004**.

MR. PRESIDENT: I vote no on **S Sub for HB 2004**. Our primary responsibility is to make suitable provisions for funding our public schools. These provisions must be adequate and equitable. And, a critical issue involved in the pending case before Judge Bullock, is that we must begin to close the achievement gap evident among our students.

This bill does none of that. It is inadequate and unequal. It doesn't provide the necessary funding to make a difference in closing the achievement gap.

The revenue provisions of this bill are anti-business, very complicated and, while creative, do not provide the kind of on-going, statewide and stable financial support needed in a school finance proposal. We must do much better than this if we are to fulfill our responsibility - our constitutional duty - to school children of Kansas.—ANTHONY HENSLEY

Senators Barone, Betts, Downey, Gilstrap, Goodwin, Haley, Lee and Steineger request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **S Sub for HB 2004**.

MR. PRESIDENT: I vote Aye on **S Sub for HB 2004** because I believe it is important at this late date to have a Senate plan for K-12 education. There are several provisions of this plan I find objectionable, especially the funding provisions. My vote is to move this bill to conference. Hopefully the conference committee will bring back a final work product I can support.—MARK TADDIKEN

S Sub HB 2133, An act relating to law enforcement; concerning special deputies; relating to multijurisdictional agreements; amending K.S.A. 2003 Supp. 19-805a, 19-805b and 19-828 and repealing the existing sections.

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

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

Nays: Haley.

The substitute bill passed.

S Sub HB 2391, An act relating to the capitol area security patrol; concerning authority thereof; amending K.S.A. 2003 Supp. 75-4503 and repealing the existing section.

On roll call, the vote was: Yeas 26, Nays 14, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Betts, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Goodwin, Helgerson, Jackson, Jordan, Journey, Kerr, Morris, O'Connor, Oleen, Schmidt, Schodorf, Steineger, Umbarger, Vratil, Wagle.

Nays: Barone, Brownlee, Clark, Gilstrap, Haley, Hensley, Huelskamp, Lee, Lyon, Pugh, Salmans, Taddiken, Teichman, Tyson.

The substitute bill passed.

HB 2531, An act concerning state historic property; relating to agricultural use of land; amending K.S.A. 75-2714, 75-2715, 75-2716 and 75-2720 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

HB 2539, An act concerning the Kansas development finance authority; authorizing bonds for research facilities; the issuance of mortgage revenue bonds; funding out-of-state projects; amending K.S.A. 74-8903 and 74-8912 and K.S.A. 2003 Supp. 74-8902, 74-8904 and 74-8905 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Nays: Pugh, Vratil.

The bill passed, as amended.

HB 2549, An act concerning insurance; pertaining to HIPAA compliance; pertaining to the demutualization of insurance companies and unclaimed property resulting therefrom; pertaining to the state children's health insurance program; pertaining to the use of an insured's social security number on any policy card issued by an insurer; amending K.S.A. 2003 Supp. 38-2001, 40-2258, 40-4623, 58-3935 and 58-3950 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

HB 2622, An act concerning agriculture; relating to department of agriculture; fees; amending K.S.A. 65-778 and 65-781 and K.S.A. 2003 Supp. 2-1205, 2-2204, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2805, 2-2806, 2-2905, 2-2906, 2-3304, 2-3306, 82a-708a, 82a-708b, 82a-714, 82a-727, 83-302 and 83-402 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Brownlee.

The bill passed, as amended.

HB 2638, An act concerning corrections; relating to community corrections; enacting the private contract prison act; amending K.S.A. 75-5292 and 75-52,105 and K.S.A. 2003 Supp. 75-5291 and 75-52,129 and repealing the existing sections.

On roll call, the vote was: Yeas 33, Nays 7, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Donovan, Downey, Emler, Gilstrap, Goodwin, Helgerson, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil.

Nays: Betts, Corbin, Haley, Hensley, Lee, Oleen, Wagle.

The bill passed, as amended.

S Sub for Sub HB 2647. An act concerning bioscience; creating a Kansas bioscience authority and providing for the powers and duties thereof; providing for bioscience development and funding; amending K.S.A. 12-1771 and 12-1772 and K.S.A. 2003 Supp. 12-1770a, 74-8004 and 74-8017 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pugh, Tyson.

The substitute bill passed, as amended.

HB 2657. An act concerning mortuary arts; relating to removal of dead bodies; educational requirements; examination and licensure; subpoenas; amending K.S.A. 65-1701a, 65-1751 and 74-1704 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

HB 2658. An act concerning adult care homes; relating to informal dispute resolution; providing for an independent review panel; relating to certain restrictions on location of adult care homes.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Journey, Pugh.

The bill passed, as amended.

HB 2673. An act concerning claims; relating to prior fiscal year claims for services or purchases by state agencies; amending K.S.A. 46-923 and repealing the existing section.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2675. An act concerning certain claims against the state, making appropriations, authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain disbursements, procedures and acts incidental to the foregoing.

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

Yeas: Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Nays: Adkins, Vratil.

The bill passed, as amended.

HB 2706. An act concerning the state finance council; voting procedures; amending K.S.A. 75-3711 and repealing the existing section.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Pugh.

The bill passed.

HB 2742, An act concerning the code for care of children; relating to records and reports; amending K.S.A. 38-1506 and 38-1508 and K.S.A. 2003 Supp. 38-1507 and 75-4319 and repealing the existing sections; also repealing K.S.A. 38-1507b.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Huelskamp.

The bill passed, as amended.

S Sub for Sub HB 2777, An act concerning controlled substances; relating to manufacturing; endangering a child; amending K.S.A. 21-3608, 65-4111, 65-4150, 65-4159, 65-4161, 65-4163 and 65-7006 and K.S.A. 2003 Supp. 65-4160 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Jackson, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Huelskamp, Jordan, Schodorf.

The substitute bill passed, as amended.

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

On roll call, the vote was: Yeas 28, Nays 12, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Brownlee, Bunten, Clark, Corbin, Donovan, Emler, Gilstrap, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Lyon, Morris, O'Connor, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Wagle.

Nays: Adkins, Allen, Barnett, Betts, Brungardt, Buhler, Downey, Goodwin, Kerr, Lee, Oleen, Vratil.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I reluctantly vote "Aye" on **HB 2798** although I believe it's hypocritical to preach Peace/Non-Violence to our children and come home from work or even from church unbuckling shoulder harnesses and unloading purses...statistically, there are already a bunch of folks in my District (otherwise law-abiding citizens)...single parents; small business owners; even some seniors...who are already carrying weapons concealed in their pants leg or their waistband or their handbag or the car glove box.

Many have contacted me expressing their desire to be "legal." Many others want to learn; to train; to license and to carry. With Missouri on my direct Eastern border...all of us feel uncertain and even threatened by the lack of clarity in that state's new CCW laws and the effect on Kansas. Although, I personally believe that **HB 2798** might represent more of a danger to our society than an assurance of greater public safety, today I respond with a vote to ease the anxiety of these fearful, but vocal, few.—DAVID HALEY

HB 2805, An act concerning counties; relating to law enforcement.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Goodwin, Helgerson, Hensley, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Barone, Betts, Gilstrap, Haley, Huelskamp, Journey, Pugh, Tyson.

The bill passed, as amended.

HB 2813, An act concerning the state board of healing arts; concerning health care records; relating to the abandonment thereof; relating to the supervision of physician assistants; concerning certain actions by the board and licenses issued by the board; amending K.S.A. 39-1504, 65-468, 65-1728, 65-2005, 65-2012, 65-28,127, 65-28a03, 65-28a10, 65-5001, 65-5410, 65-5412, 65-5510, 65-5512, 65-6119, 65-6120, 65-6123, 65-6124, 65-7208, 65-7209, 65-7217 and 72-5213 and K.S.A. 2003 Supp. 65-2891, 65-2910, 65-2920 and 65-5912 and repealing the existing sections.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

HB 2835, An act concerning the use of a recording device criminal violation; civil liability.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

HB 2869, An act concerning criminal procedure; relating to preliminary examinations.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Journey, Pugh.

The bill passed, as amended.

HB 2880, An act concerning the courts; amending K.S.A. 20-101, 20-162, 20-318, 20-320, 20-361, 20-3014 and 75-3122 and K.S.A. 2003 Supp. 20-158 and 20-319 and repealing the existing sections; also repealing K.S.A. 20-152, 20-153, 20-154, 20-161, 20-321, 20-322, 20-323 and 20-351a.

On roll call, the vote was: Yeas 31, Nays 9, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Emler, Gilstrap, Goodwin, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lyon, Morris, O'Connor, Pugh, Salmans, Schodorf, Steineger, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Adkins, Betts, Downey, Haley, Journey, Lee, Oleen, Schmidt, Taddiken.

The bill passed, as amended.

S Sub HB 2886, An act concerning legislative post audit; amending K.S.A. 46-1114 and repealing the existing section; also repealing K.S.A. 74-8840.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-

skamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The substitute bill passed.

S Sub HB 2912, An act providing for assessments on certain hospital providers and health maintenance organizations; creating the health care access improvement fund; establishing the health care access improvement panel; providing for administration.

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

Yeas: Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huel-skamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The substitute bill passed.

CHANGE OF REFERENCE

The President withdrew **Sub HB 2594** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Agriculture.

The President withdrew **S Sub for HB 2602** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Judiciary.

The President withdrew **Sub HB 2583** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Natural Resources.

CHANGE OF CONFERENCE

The President announced the appointment of Senator Jordan as a member of the Conference Committee on **SB 384** to replace Senator Salmans.

The President announced the appointment of Senator Lee as a member of the Conference Committees on **SB 353**, **SB 472**, **SB 524** to replace Senator Downey.

The President announced the appointment of Senator Hensley as a member of the Conference Committee on **HB 2795** to replace Senator Downey.

The President announced the appointment of Senator Emler as a member of the Conference Committee on **HB 2037** to replace Senator Brownlee.

ORIGINAL MOTION

Pursuant to Senate Rule 75, President Kerr determined **H Sub for SB 28**, **H Sub for SB 48**, as amended by the House, to be materially changed and referred the bills to the Committee on **Judiciary**.

Pursuant to Senate Rule 75, President Kerr determined **H Sub for SB 260**, **H Sub for SB 336**, as amended by the House, to be materially changed and referred the bills to the Committee on **Ways and Means**.

Pursuant to Senate Rule 75, President Kerr determined **SB 106**, **H Sub for SB 280**, as amended by the House, to be materially changed and referred the bills to the Committee on **Federal and State Affairs**.

MESSAGE FROM THE HOUSE

Announcing the House nonconcurs in Senate amendments to **Senate Substitute for HB 2133**, requests a conference and has appointed Representatives O'Neal, Patterson and Pauls as conferees on the House.

The House nonconcurs in Senate amendments to **Senate Substitute for HB 2391**, requests a conference and has appointed Representatives Loyd, Owens and Ward as conferees on the House.

The House nonconcurs in Senate amendments to **HB 2531**, requests a conference and has appointed Representatives D. Johnson, Powell and Thimesch as conferees on the House.

The House nonconcurs in Senate amendments to **HB 2549**, requests a conference and has appointed Representatives Barbieri-Lightner, Dreher and B. Sharp as conferees on the House.

The House nonconcurs in Senate amendments to **HB 2622**, requests a conference and has appointed Representatives D. Johnson, Powell and Thimesch as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2638**, requests a conference and has appointed Representatives Loyd, Owens and Ward as conferees on the House.

The House nonconcurrs in Senate amendments to **Senate Substitute for Substitute HB 2647**, requests a conference and has appointed Representatives Wilk, Gordon and Burroughs as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2657**, requests a conference and has appointed Representatives Jim Morrison, Long-Mast and Kirk as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2658**, requests a conference and has appointed Representatives Jim Morrison, Long-Mast and Kirk as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2673**, requests a conference and has appointed Representatives Neufeld, Shultz and Feuerborn as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2675**, requests a conference and has appointed Representatives Neufeld, Shultz and Feuerborn as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2742**, requests a conference and has appointed Representatives Loyd, Owens and Ward as conferees on the House.

The House nonconcurrs in Senate amendments to **Senate Substitute for Substitute HB 2777**, requests a conference and has appointed Representatives Loyd, Owens and Ward as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2798**, requests a conference and has appointed Representatives Mason, D. Williams and Rehorn as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2805**, requests a conference and has appointed Representatives Vickrey, Ostmeyer and Toelkes as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2813**, requests a conference and has appointed Representatives Jim Morrison, Long-Mast and Kirk as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2869**, requests a conference and has appointed Representatives Loyd, Owens and Ward as conferees on the House.

The House nonconcurrs in Senate amendments to **HB 2880**, requests a conference and has appointed Representatives O'Neal, Patterson and Pauls as conferees on the House.

The House nonconcurrs in Senate amendments to **Senate Substitute for HB 2886**, requests a conference and has appointed Representatives Neufeld, Shultz and Feuerborn as conferees on the House.

The House nonconcurrs in Senate amendments to **Senate Substitute for HB 2912**, requests a conference and has appointed Representatives Neufeld, Shultz and Feuerborn as conferees on the House.

The House accedes to the request of the Senate for a conference on **SB 29** and has appointed Representatives O'Neal, Patterson and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 45** and has appointed Representatives Loyd, Owens and Ward as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **Substitute SB 296** and has appointed Representatives D. Johnson, Powell and Thimesch as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 304** and has appointed Representatives Decker, Beggs and Reardon as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 328** and has appointed Representatives Vickrey, Ostmeyer and Gilbert as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **Substitute SB 335** and has appointed Representatives Neufeld, Shultz and Feuerborn as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 343** and has appointed Representatives O'Neal, Patterson and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 363** and has appointed Representatives Hutchins, Judy Morrison and Flaharty as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 364** and has appointed Representatives Hutchins, Judy Morrison and Thull as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 376** and has appointed Representatives Myers, Powers and Wilson as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 387** and has appointed Representatives Tafanelli, Krehbiel and Shriver as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 422** and has appointed Representatives Loyd, Owens and Ward as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 432** and has appointed Representatives O'Neal, Patterson and Pauls as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 461** and has appointed Representatives Vickrey, Ostmeyer and Shriver as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 463** and has appointed Representatives Freeborn, Tafanelli and Flora as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 487** and has appointed Representatives Neufeld, Shultz and Feuerborn as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 501** and has appointed Representatives Hayzlett, Faber and M. Long as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 511** and has appointed Representatives Jim Morrison, Long-Mast and Kirk as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 552** and has appointed Representatives Neufeld, Shultz and Feuerborn as conferees on the part of the House.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Vratil the Senate nonconcurrred in the House amendments to **SB 29** and requested a conference committee be appointed.

The President appointed Senators Vratil, Pugh and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurrred in the House amendments to **House Sub for SB 45** and requested a conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Umbarger the Senate nonconcurrred in the House amendments to **SB 304** and requested a conference committee be appointed.

The President appointed Senators Umbarger, Vratil and Hensley as a conference committee on the part of the Senate.

On motion of Senator Schmidt the Senate nonconcurrred in the House amendments to **Sub SB 335** and requested a conference committee be appointed.

The President appointed Senators Schmidt, Huelskamp and Lee as a conference committee on the part of the Senate.

On motion of Senator Tyson the Senate nonconcurrred in the House amendments to **SB 364** and requested a conference committee be appointed.

The President appointed Senators Tyson, Journey and Lee as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 422** and requested a conference committee be appointed.

The President appointed Senators Vratil, Schmidt and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Vratil the Senate nonconcurred in the House amendments to **SB 461** and requested a conference committee be appointed.

The President appointed Senators Vratil, Pugh and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Schmidt the Senate nonconcurred in the House amendments to **SB 463** and requested a conference committee be appointed.

The President appointed Senators Schmidt, Huelskamp and Lee as a conference committee on the part of the Senate.

On motion of Senator Morris the Senate nonconcurred in the House amendments to **SB 487** and requested a conference committee be appointed.

The President appointed Senators Morris, Adkins and Downey as a conference committee on the part of the Senate.

On motion of Senator Donovan the Senate nonconcurred in the House amendments to **SB 501** and requested a conference committee be appointed.

The President appointed Senators Donovan, Salmans and Goodwin as a conference committee on the part of the Senate.

On motion of Senator Wagle the Senate nonconcurred in the House amendments to **SB 511** and requested a conference committee be appointed.

The President appointed Senators Wagle, Barnett and Haley as a conference committee on the part of the Senate.

On motion of Senator Morris the Senate nonconcurred in the House amendments to **SB 552** and requested a conference committee be appointed.

The President appointed Senators Morris, Adkins and Downey as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **S Sub for HB 2133**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **S Sub for HB 2391**.

The President appointed Senators Vratil, Emler and Goodwin as conferees on the part of the Senate.

On motion of Senator Schmidt, the Senate acceded to the request of the House for a conference on **HB 2531**.

The President appointed Senators Schmidt, Huelskamp and Lee as conferees on the part of the Senate.

On motion of Senator Teichman, the Senate acceded to the request of the House for a conference on **HB 2549**.

The President appointed Senators Teichman, Barnett and Steineger as conferees on the part of the Senate.

On motion of Senator Schmidt, the Senate acceded to the request of the House for a conference on **HB 2622**.

The President appointed Senators Schmidt, Huelskamp and Lee as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2638**.

The President appointed Senators Vratil, Schmidt and Goodwin as conferees on the part of the Senate.

On motion of Senator Brownlee, the Senate acceded to the request of the House for a conference on **S Sub for Sub HB 2647**.

The President appointed Senators Brownlee, Jordan and Barone as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2657**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2658**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **HB 2673**.

The President appointed Senators Morris, Adkins and Downey as conferees on the part of the Senate.

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **HB 2675**.

The President appointed Senators Morris, Adkins and Downey as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2742**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **S Sub for Sub HB 2777**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Brungardt, the Senate acceded to the request of the House for a conference on **HB 2798**.

The President appointed Senators Brungardt, Lyon and Gilstrap as conferees on the part of the Senate.

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2805**.

The President appointed Senators Allen, Taddiken and Betts as conferees on the part of the Senate.

On motion of Senator Wagle, the Senate acceded to the request of the House for a conference on **HB 2813**.

The President appointed Senators Wagle, Barnett and Haley as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2869**.

The President appointed Senators Vratil, Pugh and Goodwin as conferees on the part of the Senate.

On motion of Senator Vratil, the Senate acceded to the request of the House for a conference on **HB 2880**.

The President appointed Senators Vratil, Schmidt and Goodwin as conferees on the part of the Senate.

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **S Sub for HB 2886**.

The President appointed Senators Morris, Adkins and Downey as conferees on the part of the Senate.

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **S Sub for HB 2912**.

The President appointed Senators Morris, Adkins and Downey as conferees on the part of the Senate.

On motion of Senator Oleen the Senate adjourned until 10:00 a.m., Wednesday, March 31, 2004.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.
PAT SAVILLE, *Secretary of the Senate*.

