

Journal of the Senate

FIFTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, April 29, 2004—9:00 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, Rev. Enois Scroggins, Spiritual Advisor, Bias Busters, Wichita, who delivered the invocation:

Most Gracious God

Creator of all things seen and not seen, we give you praise on today.

Father, we thank you for your Son Jesus Christ. For without him we would not have the right to partake of the tree of life that you have given to every man that calls on your name.

Heavenly Father, we're praying for our leader of this great country President George W. Bush, our government and the Governor of this great state of Kansas, Governor Kathleen Sebelius, Attorney General Phill Kline, Senate President Dave Kerr, Minority Leader Anthony Hensley, Bias Busters of Kansas/Kansas Fever Committee and our Senate to trust in the Lord and lean not to your own understanding but in all thy ways acknowledge him and he shall direct your path.

We're praying for the soldiers in Iraq that they make it home because we all need them back. It's comforting to know that through all of the troubles this great land of ours face, the Lord is "Standing By" in Jesus name we pray, Amen.

REFERRAL OF APPOINTMENTS

The following appointments made by the Governor and submitted to the senate for confirmation, were referred to Committees as indicated:

Kansas, Inc., Member: Stanley R. Ahlerich, effective upon the date of confirmation by the Senate, to serve a term of 4 years.

(Commerce)

Kansas, Inc., Member: Wilbur (Gene) E. Argo, effective upon the date of confirmation by the Senate, to serve a term of 4 years.

(Commerce)

Kansas, Inc., Member: Patricia L. Bossert, effective upon the date of confirmation by the Senate, to serve a term of 4 years.

(Commerce)

Kansas, Inc., Member: Donna A. Johnson, effective upon the date of confirmation by the Senate, to fulfill an unexpired term.

(Commerce)

Kansas, Inc., Member: Wilbert J. Leiker, effective upon the date of confirmation by the Senate, to fulfill an unexpired term.

(Commerce)

COMMUNICATIONS FROM STATE OFFICERS

DEPARTMENT OF HUMAN RESOURCES

April 15, 2004

In accordance with K.S.A. 44-1401 et seq., Jim Garner, Secretary, submitted the Report for the Neighborhood Improvement Youth Employment Act Program (NIYEA) for the period October 1, 2001 through September 30, 2003.

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

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Kerr, Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Buntten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, 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. 1857—

A RESOLUTION congratulating and commending John L. "Jack" Hawn.

WHEREAS, John L. "Jack" Hawn retired on October 1, 2003, after serving the State of Kansas for 38 years through his outstanding efforts in the Kansas Public Employees Retirement System; and

WHEREAS, John L. "Jack" Hawn commenced working for the State of Kansas as a part-time employee of the State Printer in 1957 and 1958; and

WHEREAS, John L. "Jack" Hawn was hired by the Kansas Public Employees Retirement System as a temporary Accountant I June 16, 1965. During his 38 year career with the retirement system he served in successively responsible positions as an Accountant I, Accountant II, Accountant III, Retirement System Manager, Deputy Executive Secretary, and in his final position as Deputy Executive Director; and

WHEREAS, John L. "Jack" Hawn became the main agency contact for the information system of the Department of Administration and was involved in system upgrades over the years. He was instrumental in the development of an Information Resource Department within the Kansas Public Employees Retirement System in the 1980's; worked with actuary and selected insurance companies to develop the death and disability programs for active employees that became effective on January 1, 1966; and organized and implemented the state employees optional group life insurance program in 1978, which was expanded to local units of government and schools in 1988; and

WHEREAS, John L. "Jack" Hawn was instrumental in implementing the details of the creation of the Kansas Police and Fire Retirement System in 1967; led the merger of the Kansas School Retirement System into the Kansas Public Employees Retirement System in 1970, which doubled the size of the membership of the Kansas Public Employees Retirement System; and was involved in the merger of the Retirement System for Judges into the Kansas Public Employees Retirement System in 1975; and

WHEREAS, John L. "Jack" Hawn staffed the Kansas Public Employees Retirement System Study Commission, which developed the 1993 retirement benefits enhancement package, and led the effort for the successful amendment to the Kansas Constitution in 2000 to lift the Kansas Public Employees Retirement System investment restrictions on banking stocks; and

WHEREAS, John L. "Jack" Hawn provided outstanding staff assistance to the Kansas Legislature on retirement issues and legislation, in particular to the House Appropriations Committee, the Senate Ways and Means Committee, the House Pensions, Investments and Benefits Committee and the Joint Committee on Pensions, Investments and Benefits; and

WHEREAS, John L. "Jack" Hawn was born and reared in Topeka. He graduated from Topeka High School in 1955 and completed his degree in accounting from Washburn University in 1965; and

WHEREAS, John L. "Jack" Hawn was married to Valetta "Val" Davis on October 1, 1961. They have two daughters, Kathy Lynn Williams and Jonna Lynn Desch, and are proud

grandparents of four grandchildren: Jaime Williams, Matthew Williams, Alexia Desch and Cody Desch; and

WHEREAS, John L. "Jack" Hawn is known for his love of sports trivia and for his "Tiger Woods"-like golfing ability. He has been an avid supporter of the Washburn University and University of Kansas athletic programs and has had a special interest in the NCAA basketball tournament: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend John L. "Jack" Hawn for his long and distinguished career of public service to the State of Kansas and the legacy of professional excellence he leaves after his many years of service to the Kansas Legislature and to the Kansas Public Employees Retirement System; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to John L. "Jack" Hawn, 6751 Shawnee Lane, Meriden, Kansas 66512; Kathy Williams, 7016 SW Crestwood Drive, Topeka, Kansas 66619 and Jonna Desch, 4211 NW Dondee, Topeka, Kansas 66618.

On emergency motion of Senator Kerr **SR 1857** was adopted unanimously.

Senator Kerr and members of the Senate paid tribute to Jack Hawn for his many years of faithful service. Accompanying Jack were his wife, Val; daughters, Kathy Williams and Jonna Desch; and Todd Desch.

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

SENATE RESOLUTION No. 1858—

A RESOLUTION congratulating and commending the Olathe South High School boys basketball team and Coach John McFall for winning the 2004 Class 6A State Basketball Championship.

WHEREAS, The Olathe South High School boys basketball team won the 2004 Kansas State High School Activities Association Class 6A State Basketball Championship with a thrilling 47-32 victory over Dodge City High School in the state championship game at Emporia on March 13. To get to the championship game the team defeated St. Thomas Aquinas 86-53 and Blue Valley Northwest 63-55. This year's championship is particularly sweet as the team lost by three points in the state finals last year; and

WHEREAS, The Olathe South High School "Falcons" basketball team finished the season with a record of 24 wins and 1 loss. The record for the seniors on this team is 67 wins to 5 losses; and

WHEREAS, The team's point guard Andrew Meile was named by the Sunflower League coaches as the Sunflower Player of the Year, and head coach John McFall was selected as the 2004 Eddie Ryan Award winner, an honor presented to the top boy's coach in the Kansas City area; and

WHEREAS, Caleb Holmes was a nominee for the Di Renna Award; Caleb Holmes, Nick Holmes and Andrew Meile will play in the Kansas all-star game this summer; and Caleb Holmes, Nick Holmes and Andrew Meile played in the Kansas City area Kansas-Missouri all-star game; and

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

WHEREAS, The success of this team was due to its excellent teamwork, strong competitive spirit and determination to win. The team also had 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 Olathe South High School boys basketball team and Coach McFall be congratulated and commended for winning the 2004 Kansas State High School Activities Association Class 6A State Basketball Championship; and

Be it further resolved: That the Secretary of the Senate send an enrolled copy of this resolution to Phil Clark, Principal, Olathe South High School, 1640 E. 151st Street, Olathe, KS 66062-2851.

On emergency motion of Senator Brownlee **SR 1858** was adopted unanimously.

President Kerr and members of the Senate welcomed and congratulated the Olathe South Boys Basketball Team. Accompanying the team were Coach John McFall and his wife, Gina; and Assistant Coach Jim Carr.

Senators Kerr, Adkins, Allen, Barnett, Barone, Betts, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Hensley, Huelskamp, Jackson, Jordan, Journey, 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. 1859—

A RESOLUTION congratulating and commending John Lesley Petterson.

WHEREAS, John Petterson, the Kansas capitol reporter for the Kansas City Star, is retiring at the end of June, 2004, and this will be his final legislative session to cover; and

WHEREAS, Mr. Petterson's work history encompasses nearly four decades of reporting the news at the Kansas statehouse. From 1962 to 1967 he was a reporter for the Topeka Capital-Journal, including coverage of the 1967 legislative session. From 1967 to 1983 he was the capitol reporter for the Wichita Eagle and Beacon and commenced in 1983 as the capitol reporter for the Kansas City Times and the Kansas City Star. He has reported on 37 legislative sessions through the administrations of seven governors: Robert Docking, Robert Bennett, John Carlin, Mike Hayden, Joan Finney, Bill Graves and Kathleen Sebelius; and

WHEREAS, John followed his father, C. J. "Jim" Petterson, in the newspaper business. His father was a statehouse reporter for the Associated Press, the Wichita Beacon and the Topeka Daily Capital and the Topeka State Journal; and

WHEREAS, John Petterson was born January 21, 1939, in Oklahoma City, Oklahoma. He is a graduate of Topeka High School and Kansas State University where he earned a bachelor's degree in journalism. He married Helen Lowrey in 1983; she is now retired and volunteers at the Topeka and Shawnee County Public Library. His son, Jim, is the communications director for The Nature Conservancy, his son, Jeff, is program director for V-100, a Topeka radio station, and his stepson, Robert Owen, is conducting post-doctoral research at the University of Michigan. He has two grandchildren, Caroline Petterson, 3, and John Alexander "Jack" Petterson, 2; and

WHEREAS, John's retirement plans include backpacking with annual treks to Colorado and Utah with the Prairie Packers. He enjoys working with ceramics and a potter's wheel and hopes to monitor art classes at Washburn University in his retirement. He and his wife plan to travel extensively, beginning this summer with an extended trip to Alaska; and

WHEREAS, Mr. Petterson has enjoyed the confidence of a myriad of legislators and officials in the executive branch of government. His articles regarding pending legislation have been widely read and recognized for their insight and completeness: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend John Lesley Petterson for four decades of professional service to the media and to the citizens of Kansas who have relied on his writings. We wish him well in his future activities; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to John Petterson, Kansas City Star office, statehouse.

On emergency motion of Senator Kerr **SR 1859** was adopted unanimously.

Senator Kerr and members of the Senate acknowledged John for his many years of service with a standing ovation. He was accompanied by his wife, Helen.

Senators Hensley, Adkins, Allen, Barnett, Barone, Betts, Buhler, Bunten, Clark, Corbin, Downey, Emler, Gilstrap, Goodwin, Haley, Helgerson, Jackson, Jordan, Kerr, Lee, Oleen, Schmidt, Schodorf, Steineger, Taddiken, Umbarger, Vratil and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1860—

A RESOLUTION celebrating the 50th anniversary of the United States Supreme Court's decision in *Brown v. Board of Education*.

WHEREAS, The petition in the case of *Brown v. Board of Education* was filed February 28, 1951; and

WHEREAS, On May 17, 1954, in an unanimous order the United States Supreme Court issued its decision overturning the earlier doctrine of “separate but equal” schools in *Plessy v. Ferguson* and declared that “in the field of public education ‘Separate but Equal’ has no place. Separate educational facilities are inherently unequal.” On May 17, 2004, the 50th anniversary of this decision, the National Park Service will have its grand opening of the new *Brown v. Board of Education* National Historic Site located in the former Monroe School in Topeka; and

WHEREAS, It is indeed ironic that 100 years before this historic decision the Kansas Territory, which became known as Bleeding Kansas because of the struggle which ultimately saw Kansas enter the union as a free state, would be the forum for the integration of African-Americans in our public schools; and

WHEREAS, The Brown case was organized and filed by McKinley L. Burnett, President of the local chapter of the National Association for the Advancement of Colored People (NAACP) who recruited African-American parents in Topeka to challenge segregation by sending their children to enroll in white schools. At that time Topeka had four segregated schools as permitted by state law for cities of more than 15,000 inhabitants. The following 13 parents, who had a total of 20 children, became involved in the project and became the original plaintiffs in the case: Oliver Brown, Lena Mae Carper, Margurite Emmerson, Zelma Henderson, Maude Lawton, Lucinda Todd, Sadie Emmanuel, Shirley Fleming, Shirley Hodison, Alma Lewish, Vivian Scales, Darlene Brown and Iona Richardson. Oliver Brown, member of the St. Mark A.M.E. Church in Topeka, and the only male plaintiff was listed first in the case. The Kansas case was consolidated with four other cases from Delaware, South Carolina, Virginia and the District of Columbia; and

WHEREAS, Attorneys of note involved in the litigation were Charles Scott, Legal Counsel for the Topeka NAACP, Charles Houston, former Dean of the Howard University School of Law and counsel for the NAACP, and Thurgood Marshall, who was hired by Dean Houston to represent the NAACP and who argued the case before the Supreme Court; and

WHEREAS, The Monroe School was saved from demolition, was purchased by the federal government and in December 1993 was transferred to the National Park Service to be the new *Brown v. Board of Education* National Historic Site and the first unit of the National Park Service to be named after a court case; and

WHEREAS, The Kansas Committee to Commemorate *Brown v. Board of Education* has been a force since 1976 in creating an awareness and supporting education about the landmark decision, assisting with the movement to make Monroe School a National Historic Site, dedicating Sumner Elementary School as a National Historic Landmark, naming and dedication of the Scott magnet school, naming of the Thurgood Marshall Bridge and leading the efforts renaming the Topeka Public Schools Administrative Center in honor of McKinley L. Burnett: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we join with the nation in celebrating the 50th anniversary of the United States Supreme Court’s decision in *Brown v. Board of Education*; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to the Executive Director, State Historical Society, 6425 S.W. 6th Avenue, Topeka, KS 66615; C.E. “Sonny” Scroggins, Kansas Committee to Commemorate *Brown v. Board of Education*, 901 S.W. Tyler, Suite 111, Topeka, KS 66612; Monroe School National Historic Site; each of the 13 families of the original plaintiffs; and one copy to the family of McKinley L. Burnett.

On emergency motion of Senator Hensley **SR 1860** was adopted unanimously.

Guests introduced and welcomed were Rev. Enois Scroggins, C. E. “Sonny” Scroggins, W. D. Martin, Jr., and Octavio Rolfe.

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

SENATE RESOLUTION No. 1861—

A RESOLUTION congratulating and commending the city of Russell for its award winning energy plant.

WHEREAS, The city of Russell's energy center has been awarded the Energy Star Combined Heat and Power Award from the United States Environmental Protection Agency and the United State Department of Energy. The award was presented at the 2004 American Public Power Association Engineering and Operations Technical Conference in San Antonio, Texas, on March 8. Russell is the first city in Kansas, and only the second community in the nation to have received this award. Additionally, the city has received the Environmental Protection Agency's Combined Heat & Power (CHP) "Certificate of Recognition"; and

WHEREAS, The city's municipal power plant suffered an explosion in August 2000 that destroyed 50% of the electrical generation facility. After considering reinstalling piston type generators and exploring the potential use of wind turbines, the city decided to rebuild using gas turbines. Working with a private ethanol producer, U.S. Energy Partners, LLC, the city was able to engage in a process known as cogeneration. The city installed two Solar Taurus 70 gas turbines with heat recovery generators. The steam remaining after passing through the turbine to generate electricity is transferred to the ethanol plant to provide up to 2/3 of the thermal requirements to power the facility. Any remaining steam is then used a second time to process cattle feed going to feed lots and the resulting CO₂ gas is extracted for use at the enhanced oil recovery project outside the city. The result is that the efficiency of the fossil fuel used to generate the steam is increased from about 40% to over 80% while using 28% less fuel. The ethanol plant uses 12 million bushels of milo grown by local farmers to produce clean ethanol gas to power automobiles, produces distillers grain as a high quality feed for livestock, has made it possible to reopen a nearby wheat gluten plant and has provided new jobs for the community. Additionally, the entire process is considered the model for reducing atmospheric pollutants associated with conventional power generation: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the city of Russell upon the technological accomplishments of its new power generating facility and upon it being awarded the Energy Star Combined Heat and Power Award by the federal government; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to Gary J. Hobbie, City Manager, City of Russell, 133 W. 8th, Russell, KS 67665-0112.

On emergency motion of Senator Lee **SR 1861** was adopted unanimously.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2585**, as amended by House Committee, be amended on page 1, by striking all in lines 21 through 27 and inserting the following:

"New Section 1. On and after October 1, 2004, the Kansas department of agriculture shall succeed to whatever right, title or interest the department of health and environment has acquired in any real property in this state concerning the functions transferred by this act or by 2004 Executive Reorganization Order No. 32, and the authority shall hold the same for and in the name of the state of Kansas. On and after October 1, 2004, whenever any statute, contract, deed or other document concerns the power or authority of the department of health and environment or the secretary of the department of health and environment concerning the functions transferred by this act or by 2004 Executive Reorganization Order No. 32 to acquire, hold or dispose of real property or any interest therein, the Kansas department of agriculture shall succeed to such power or authority.

New Sec. 2. Except as otherwise provided in this act, on October 1, 2004, officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of the department of health and environment concerning food and food service which are transferred by this act or by 2004 Executive Reorganization Order No. 32, or who become a part of the Kansas department of agriculture, or the powers, duties and functions of which are transferred to the Kansas department of agriculture, and who, in the opinion of the secretary of the Kansas department of agriculture, are necessary to perform the powers, duties and functions of the Kansas department of agriculture, shall be transferred to, and shall become officers and employees of the Kansas department of agriculture.

New Sec. 3. On and after October 1, 2004, when any conflict arises as to the disposition of any power, function or duty or the unexpended balance of any appropriation as a result of any abolition, transfer, attachment or change made by or under authority of this act, such conflict shall be resolved by the governor, whose decision shall be final.

New Sec. 4. (a) On and after October 1, 2004, the Kansas department of agriculture shall serve as custodian for all agency records as defined by the Kansas open records act, related to those sections of chapter 36, article 5 and chapter 65, article 6, from which authority is transferred from the secretary of health and environment to the secretary of agriculture. The department of health and environment shall continue to serve as custodian as defined by the Kansas open records act for all agency records related to chapter 36, article 5 and chapter 65, article 6 generated prior to October 1, 2004. A request for records generated prior to October 1, 2004, pursuant to the Kansas open records act may be made to the Kansas department of agriculture and it will be forwarded to the department of health and environment upon receipt.

(b) The department of health and environment will immediately make available to the Kansas department of agriculture upon request any records, memoranda, writings, entries, prints, representations or combinations thereof of any act, transaction, occurrence or event of the department of health and environment related to those functions transferred to the secretary of agriculture.

New Sec. 5. (a) The balances of all funds or accounts thereof appropriated or reappropriated for the department of health and environment relating to the powers, duties and functions transferred by this act are hereby transferred within the state treasury to the Kansas department of agriculture and shall be used only for the purpose for which the appropriation was originally made. On and after October 1, 2004, all such balances shall be deposited in the food safety fee fund and may be used to carry out the responsibilities and duties of the division of food safety of the Kansas department of agriculture, as established by this act.

(b) There is hereby created the food safety fee fund. The Kansas department of agriculture shall remit all moneys received by or for it from fees, charges or penalties 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 food safety fee fund. All expenditures from the food safety fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary.

Sec. 6. K.S.A. 65-688 is hereby amended to read as follows: 65-688. (a) As used in this section and K.S.A. 65-689, and amendments thereto:

(1) "Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include roadside markets that offer only fresh fruits and vegetables for sale, food service establishments or food and beverage vending machines, ~~or any plant which is registered by the department of agriculture under article 7 of chapter 65 of the Kansas Statutes Annotated or which is licensed by the department of agriculture under article 6a of chapter 65 of the Kansas Statutes Annotated.~~

(2) "Food processing plant" means a commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to the consumer. "Food processing plant" shall not include any operation or individual beekeeper that produces or stores honey who does not process or offer the honey for sale at retail, ~~or any plant which is registered by the department of agriculture under article 7 of chapter 65 of the Kansas Statutes Annotated or which is licensed by the department of agriculture under article 6a of chapter 65 of the Kansas Statutes Annotated.~~

(3) "Food" means a raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption or chewing gum.

(4) "Secretary" means the secretary of ~~health and environment~~ agriculture.

(b) In order to reimburse the state of Kansas for inspections by the secretary of ~~health and environment~~ *agriculture* of retail food stores and food processing plants, the secretary of ~~health and environment~~ *agriculture* shall adopt rules and regulations establishing a graduated inspection fee schedule to cover all of the cost of inspection of retail food stores and food processing plants which shall not exceed \$200 per calendar year for each retail food store and food processing plant location. Whenever the secretary determines that the total amount of revenue derived from the fees collected pursuant to this section are insufficient to carry out the purposes for which the fees are collected, the secretary may amend such rules and regulations to increase the amount of the fee or fees, except that the amount of any fee shall not exceed the maximum amount authorized by this subsection. Whenever the amount of fees collected pursuant to this subsection provides revenue in excess of the amount necessary to carry out the purposes for which such fees are collected, it shall be the duty of the secretary to decrease the amount of the fees prescribed for retail food stores or food processing plants by amending the rules and regulations which fix the fees, as the case may be.

(c) All moneys received as fees under this section shall be remitted to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the food ~~inspection safety~~ fee fund.

(d) The secretary of ~~health and environment~~ *agriculture* shall adopt rules and regulations necessary to carry out the provisions of this section.

New Sec. 7. The secretary of agriculture and the secretary of health and environment shall provide for a mechanism for ongoing communication and access between the division of food safety, as established by this act, and the bureau of epidemiology at the department of health and environment. The secretary of agriculture and the secretary of health and environment shall take all reasonably necessary steps to apply consistent standards, policies, protocols and procedures in the licensing, inspection and regulation of food service establishments, taking into account the relative risk posed by such establishments to public health and food safety.

New Sec. 8. (a) There is hereby established within and as a part of the Kansas department of agriculture, the division of food safety. The secretary of agriculture shall appoint a director of such division and such director shall be in the classified service of the Kansas civil service act.

(b) The secretary of agriculture may organize the division of food safety in the manner the secretary deems most efficient, so long as the same is not in conflict with the provisions of this act or with the provisions of law, and the secretary may establish policies governing the transaction of business of the division of food safety within the department.

Sec. 9. K.S.A. 2003 Supp. 74-567 is hereby amended to read as follows: 74-567. (a) The state board of agriculture shall have such powers, duties and functions as prescribed by this section. The board shall serve in an advisory capacity to the governor and the secretary to review and make recommendations on department legislative initiatives and proposed rules and regulations or proposed revised rules and regulations prior to the submission of such rules and regulations to the secretary of administration pursuant to K.S.A. 77-420, and amendments thereto, other than rules and regulations pertaining to personnel matters of the department ~~and~~ rules and regulations of the division of water resources *and rules and regulations of the division of food safety*. The board shall not have any powers, duties or functions concerning the day-to-day operations of the *Kansas* department of agriculture.

(b) The board shall serve in an advisory capacity to the agriculture products development division of the department of commerce. The board shall advise the division on issues and concerns relating to agriculture products development and marketing.

(c) The agriculture products development division of the department of commerce shall report to the board, at not less than two meetings of such board each year, on the activities and functions of the division.

New Sec. 10. (a) The Kansas department of agriculture shall create a statistically based random selection of not less than 1,000 retail food stores which shall be inspected, documented and evaluated as a transferred programs baseline. The department shall include the results of the baseline inspections in the report required on January 31, 2006, in section 11, and amendments thereto.

(b) On February 1, 2005, the Kansas department of agriculture shall report to the legislature the status of the baseline inspection program using 359 randomly selected retail food stores from subsection (a).

New Sec. 11. Not later than January 31, 2005, and January 31, 2006, the Kansas department of agriculture shall report to the house and senate committees on agriculture on the status of the transition. Such report shall be prepared in cooperation with the department of health and environment. The report shall include the steps taken to ensure that food safety resources are targeted at identifying, preventing and eliminating those concerns that constitute the greatest risk to public health and food safety. The report shall also include a description of what steps have been taken to engage stakeholders in the transition and in deciding what actions would tend to improve food safety.

New Sec. 12. (a) Any person or entity who shall violate any of the provisions of this act and amendments thereto or the rules and regulations adopted, may incur a civil penalty in an amount not more than \$1,000 per violation, and in the case of a continuing violation every day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law. Any civil penalty assessed pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(b) Any person or entity who shall violate any of the provisions of this act and amendments thereto or the rules and regulations adopted, in an intentional and reckless manner shall be guilty of a class A, nonperson misdemeanor.

(c) Any food misbranded or adulterated or containing or suspected of containing any substance or substances injurious to public health or which is offered or exposed for sale in violation of any of the provisions of this act and amendments thereto shall be subject to seizure in place until such time that the final disposition of the food has been determined by sampling and analysis. Within 30 days of seizure in place, upon verification that the suspected food was misbranded, adulterated or contains a substance or substances that may be injurious to public health the secretary of agriculture shall issue an order establishing measures to prevent further contamination or the threat to public health. The opportunity for hearing pursuant to the Kansas administrative procedure act shall be provided upon issuance of the order. The secretary of agriculture may order the destruction of contaminated food if no alternative assures that further contamination of health hazards are averted, and may be imposed in addition to any other penalty established by law. The district courts of the state of Kansas shall have jurisdiction to restrain violations of this act by injunction.

New Sec. 13. The secretary of agriculture is hereby authorized to contract with the governing body of any local unit of government to carry out rules and regulations established under this act within the boundaries of such local unit of government. For the purposes of carrying out the provisions of this act, the secretary of agriculture or the secretary's agent or the county or district attorney or their agents may enter any premises at any reasonable time, in order:

(a) To have access for the purpose of inspecting any premises, products or equipment subject to this act; or

(b) to inspect or sample food actually or reported to be adulterated or a threat to public health; or

(c) to inspect or investigate complaints of violations of this act; or

(d) to sample products.

Should the secretary of agriculture, the secretary's agent or the county or district attorney or their agents be denied access to any premises where such access was sought for the purposes authorized, the secretary of agriculture or the county or district attorney may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises for such purposes. The court may upon such application, issue the search warrant for the purposes requested.

The enforcement of the criminal provisions of this act shall be the duty of, and shall be implemented by, the county or district attorneys of the various counties or districts. In the event a county or district attorney refuses to act, the attorney general shall so act. The secretary of agriculture is charged with the duty of enforcing all other provisions of this act.

New Sec. 14. (a) The secretary of agriculture may deny, suspend, revoke or modify the provisions of any license issued under this act, if the secretary finds, after notice and hearing, that the applicant or licensee has:

(1) Been convicted of or pleaded guilty to a violation of this act or any rule and regulation promulgated thereunder;

(2) failed to comply with any provision or requirement of this act or any rule and regulation adopted thereunder;

(3) interfered with or prevented the secretary or any authorized representative of the secretary from the performance of that person's job duties regarding any inspection or the administration of the provisions of this act; or

(4) denied the secretary or any authorized representative of the secretary access to any premises required to be inspected under the provisions of this act.

(b) Before any license shall be suspended, modified, revoked or denied renewal, the secretary shall inform the applicant or licensee of the date and place of hearing upon such proposed revocation, denial or suspension.

(c) The licensee or applicant may appeal from the decision and order, in accordance with provisions of the act for judicial review and civil enforcement of agency actions.

Sec. 15. K.S.A. 74-560 is hereby amended to read as follows: 74-560. (a) On and after the effective date of this act, in order to reorganize the administration, planning and regulation of the state's agriculture industry there is hereby established within the executive branch of government the Kansas department of agriculture, which shall be administered under the direction and supervision of a secretary of agriculture.

(b) ~~The state board of agriculture, established pursuant to K.S.A. 74-562, shall nominate three individuals to the governor for the appointment as secretary of agriculture. The governor either shall select and appoint a person nominated to be secretary or shall reject the nominations and request the board to nominate three new individuals for the appointment as secretary. Upon receipt of any such request for the nomination of three new individuals, the board shall nominate three new individuals for the appointment as secretary in the same manner. The secretary shall be appointed by the governor. The nominees secretary shall have a demonstrated executive and administrative ability to discharge the duties of the office of secretary. Every appointed secretary of agriculture shall be appointed subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. The secretary shall be a member of the governor's cabinet. The secretary shall serve at the pleasure of the governor. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary to be fixed by the governor. The acting secretary of agriculture who is serving as the secretary on the effective date of this act shall be the secretary of agriculture as established by this act, shall serve at the pleasure of the governor and shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Any action of the Senate taken prior to the effective date of this act which confirms an individual as the secretary of agriculture is hereby validated and shall constitute confirmation by the Senate of such individual as secretary of agriculture under this section.~~

(c) The secretary shall organize an annual public informational meeting. The meeting shall take place in each congressional district on a rotating basis.

(d) The provisions of the Kansas governmental operations accountability law apply to the Kansas department of agriculture, and the department is subject to audit, review and evaluation under such law.

Sec. 16. K.S.A. 65-688 and 74-560 and K.S.A. 2003 Supp. 74-567 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.”;

In the title, by striking lines 10 and 11 and inserting the following:

“AN ACT relating to the Kansas department of agriculture; transferring powers and duties of the secretary of the department of health and environment to the secretary of agriculture; amending K.S.A. 65-688 and 74-560 and K.S.A. 2003 Supp. 74-567 and repealing the existing sections.”; and the bill be passed as amended.

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 Barnett in the chair.

On motion of Senator Barnett the following report was adopted:

Recommended **HB 2571** be passed.

SB 305 be amended by adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Brungardt to amend **SB 305** failed and the following amendment was rejected: As further amended by Senate Committee, on page 9, following line 5, by inserting:

“(c) A retailer issued a license pursuant to this section may sell at retail alcoholic liquor in the original package on Sunday between the hours of 12 noon and 8 p.m. within such township if the board of county commissioners of the county in which such township is located adopts a resolution permitting such sales. The county clerk shall send a certified copy of such resolution to the director and to the township board of trustees of such township”;

On page 14, in line 4, by striking “No” and inserting “(a) Except as provided by this section, no”; following line 18, by inserting:

“(b) A retailer may sell at retail alcoholic liquor in the original package on Sunday between the hours of 12 noon and 8 p.m. within: (1) The corporate limits of any city where the sale at retail of alcoholic liquor in the original package on Sunday has been approved as provided by section 10, and amendments thereto; and (2) the boundaries of any township where the sale at retail of alcoholic liquor in the original package on Sunday has been approved as provided by K.S.A. 41-303, and amendments thereto.

New Sec. 10. (a) The governing body of any city may adopt an ordinance permitting the sale at retail of alcoholic liquor in the original package on Sunday between the hours of 12 noon and 8 p.m. Such ordinance shall be published at least once each week for two consecutive weeks in the official city newspaper. Such ordinance shall not become effective until at least 30 days following the date of the last publication thereof. If within 30 days following the last publication of the ordinance, a petition requesting that the proposition be submitted for approval by the voters is filed in accordance with subsection (b), such ordinance shall not become effective until the proposition is submitted to and approved at an election as provided by this section.

(b) A petition to submit a proposition to the qualified voters of a city pursuant to this section shall be filed with the city clerk. The petition shall be signed by qualified voters of the city equal in number to not less than 10% of the voters of the city who voted for the office of secretary of state at the last preceding general election of such office.

(c) Upon the filing of a sufficient petition pursuant to this section, the governing body shall cause the proposition to be placed on the ballot at the next succeeding primary or general election which occurs after the petition is filed with the city clerk or at a special election called and held thereon. Such election shall be called and held in the manner provided by law for question submitted elections.

(d) If a majority of the voters voting at any election pursuant to this section votes in favor of the proposition, the governing body shall transmit a copy of the results to the director.”;

By renumbering sections accordingly

HB 2939 be amended by adoption of the committee amendments, and the bill be passed as amended.

S Sub for HB 2471 be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Emler on page 35, after line 35, by inserting the following:

“Sec. 58.

DEPARTMENT OF TRANSPORTATION

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year or years specified, all moneys now or hereafter lawfully credited

to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Communication system revolving fund
 For the fiscal year ending June 30, 2005..... No limit

(b) On July 1, 2004, the position limitation established for the fiscal year ending June 30, 2005, by section 137(a) of 2004 House Bill No. 2675 for the department of transportation is hereby increased from 3247.5 to 3251.5.”;

And by renumbering sections accordingly

Senator Jackson amended **S Sub for HB 2471**, on page 35, after line 35, by inserting a new section to read as follows:

“Sec. 58.

BOARD OF NURSING

(a) On the effective date of this act, the board of nursing is hereby authorized and directed to pay the following amount from the board of nursing fee fund for the fiscal year ending June 30, 2004, as reimbursement for attorney’s fees and other related expenses incurred in application for a nursing license, to the following claimant:

Elizabeth Tiszavary
 704 South 29th
 Lincoln, NE 68510..... \$609.80

(b) Except as otherwise provided by this act, the director of accounts and reports is hereby authorized and directed to draw warrants on the state treasurer in favor of the claimants specified in this section, upon vouchers duly executed by the state agencies directed to pay the amounts specified in such section to the claimants or their legal representatives or duly authorized agents, as provided by law.

(c) The director of accounts and reports shall secure prior to the payment of any amount to any claimant, as provided by this section, a written release and satisfaction of all claims and rights against the state of Kansas and any agencies, officers and employees of the state of Kansas regarding their respective claims.

And by renumbering sections accordingly

Senator Morris amended **S Sub for HB 2741**, on page 3, following line 4, by inserting the following material to read as follows:

“Wireless enhanced 911 grant fund
 For the fiscal year ending June 30, 2005..... No limit

Provided, That expenditures may be made from the wireless enhanced 911 grant fund for operating expenditures for the governor’s department, including conferences and official hospitality: *Provided further*, That the governor is hereby authorized to fix, charge and collect fees for such conferences: *And provided further*, That fees for such conferences shall be fixed in order to recover all or part of the operating expenses incurred for such conferences, including official hospitality: *And provided further*, That all fees received for such conferences and all fees received by the governor’s department under the open records act for providing access to or furnishing copies of public records, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215 and amendments thereto: *And provided further*, That, upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the wireless enhanced 911 grant fund.”;

Also on page 3, following line 17, by inserting the following material to read as follows:

“Wireless enhanced 911 grant fund
 For the fiscal year ending June 30, 2005..... No limit”

Senator Morris amended **S Sub for HB 2741**, on page 15, in line 43, by striking “of the”;

On page 16, in line 1, after “payment” by inserting “of”, **S Sub for HB 2741** be passed as amended.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 305**; **HB 2571**, **HB 2939**.

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a $\frac{2}{3}$ constitutional majority, and **SB 305**; **S Sub for HB 2471**; **HB 2571**, **HB 2939** were advanced to Final Action and roll call.

SB 305, An act concerning alcoholic beverages; relating to the regulation thereof; amending K.S.A. 41-208, 41-301, 41-302, 41-303, 41-710, 41-712, 41-714 and 41-2704 and K.S.A. 2003 Supp. 19-101a, 41-347, 41-501 and 41-719 and repealing the existing sections; also repealing K.S.A. 41-1111, 41-1112, 41-1114 through 41-1121.

On roll call, the vote was: Yeas 27, Nays 12, Present and Passing 1, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Bunten, Clark, Corbin, Donovan, Downey, Emler, Goodwin, Huelskamp, Jordan, Journey, Kerr, Lyon, Morris, Oleen, Pugh, Salmans, Schodorf, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Betts, Buhler, Gilstrap, Haley, Helgerson, Hensley, Jackson, Lee, O'Connor, Schmidt, Steineger.

Present and Passing: Brungardt.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **SB 305** because it sends a message to our citizens back home, who voted in good faith to have Sunday Sales in their communities, that we, their state elected legislators think they aren't smart enough to know what is good for them.—
KAY O'CONNOR

Senators Gilstrap, Haley, Hensley and Jackson request the record to show they concur with the "Explanation of Vote" offered by Senator O'Connor on **SB 305**.

S Sub for HB 2471, An act making and concerning appropriations for the fiscal years ending June 30, 2004, June 30, 2005, June 30, 2006, and June 30, 2007; authorizing certain transfers and fees, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the foregoing; repealing section 66 of 2004 House Bill No. 2675.

On roll call, the vote was: Yeas 22, Nays 15, Present and Passing 3, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brownlee, Brungardt, Bunten, Clark, Corbin, Donovan, Emler, Goodwin, Hensley, Jackson, Jordan, Kerr, Morris, Salmans, Schmidt, Schodorf, Teichman, Umbarger, Vratil.

Nays: Barone, Betts, Gilstrap, Haley, Helgerson, Huelskamp, Journey, Lyon, O'Connor, Oleen, Pugh, Steineger, Taddiken, Tyson, Wagle.

Present and Passing: Buhler, Downey, Lee.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: This bill has several issues that need to be resolved in Conference Committee. When those problems are repaired, I will vote to support this budget.—
CHRISTINE DOWNEY

Senator Barone requests the record to show he concurs with the "Explanation of Vote" offered by Senator Downey on **S Sub for HB 2471**.

HB 2571, An act concerning vital statistics; authorizing specified state and federal employees access to certain information and copies of birth certificates without a court order; amending K.S.A. 65-2422d 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 2939, An act concerning certain boards and councils; relating to the membership of the health care data governing board; concerning the Kansas apprenticeship council; amending K.S.A. 44-661 and 65-6803 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, Huelkamp, 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.

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

AFTERNOON SESSION

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

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **HB 2053**, **HB 2568**, **HB 2569**.

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 Wagle in the chair.

On motion of Senator Wagle the following report was adopted:

HB 2568 be passed.

HB 2569 be amended by motion of Senator Jordan on page 1, line 18-19, by striking lines 18-19 subsection (2) and renumber accordingly and **HB 2569** be passed as amended.

HB 2053 be amended by adoption of the committee amendments, be further amended by motion of Senator Barone as amended by Senate Committee, on page 9, in line 20, by striking "Subject to the provisions of" and inserting "If the operation of a destination casino has been approved by the voters of the county in which the destination casino is proposed to be located as provided by";

On page 15, by striking all in lines 6 through 43;

On page 16, by striking all in lines 1 through 10; following line 10, by inserting:

"New Sec. 7. (a) Destination casinos shall be operated pursuant to the Kansas expanded gaming opportunity act only in counties where, in accordance with this section, the qualified voters of the county have voted to permit operation of a destination casino within the county.

(b) The board of county commissioners of any county may submit by resolution, and shall submit upon presentation of a petition filed in accordance with subsection (c), to the qualified voters of the county a proposition to permit the operation of a destination casino within the county. The proposition shall be submitted to the voters either at the next primary or general election held after the resolution is adopted or the petition is filed or at a special election of the county, as shall be specified by the board of county commissioners or in the petition, as the case may be.

(c) A petition to submit a proposition to the qualified voters of a county pursuant to this section shall be filed with the election officer. The petition shall be signed by qualified voters of the county equal in number to not less than 10% of the voters of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected. The following shall appear on the petition:

"We request an election to determine whether the operation of a destination casino shall be permitted in _____ county."

(d) Upon the adoption of a resolution or the submission of a valid petition calling for an election pursuant to this section, the county election officer shall cause the following prop-

osition to be placed on the ballot at the election called for that purpose: "Shall the operation of a destination casino be permitted in _____ county?"

(e) If a majority of the votes cast and counted at such election is in favor of permitting the operation of a destination casino, the destination casino commission may issue a certificate of authority and the executive director may enter into a management contract for the operation of a destination casino within the county as provided by the Kansas expanded gaming opportunity act. If a majority of the votes cast and counted at an election under this section is against permitting the operation of a destination casino in the county, the destination casino commission shall not issue a certificate of authority and the executive director shall not enter contracts for the operation of a destination casino in the county. The county election officer shall transmit a copy of the certification of the results of the election to the executive director.

(f) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.;

On page 20, in line 43, before "lottery", by inserting "video";

On page 21, following line 4, by inserting:

"(d) The question of the placement of video lottery terminals may be submitted at the same election at which is submitted the question of the operation of a destination casino under section 7, and amendments thereto."

Senator Betts amended **HB 2053** as amended by Senate Committee, on page 53, following line 1, by inserting:

"New Sec. 49. Contracts representing at least 10% of the total value of all contracts awarded for the construction of any destination enterprise and destination casino shall be awarded to minority-owned or women-owned businesses.;"

By renumbering remaining sections accordingly, and **HB 2053** be passed as further amended.

The following amendments offered to **HB 2053** were rejected:

Senator Brungardt moved to amend the **HB 2053** as amended by Senate Committee, on page 19, in line 2, by striking "(1)"; in line 3, by striking all after "organization"; by striking all in lines 4, 5 and 6; in line 7, by striking all before the period

Senator Steineger moved to amend **HB 2053** as amended by Senate Committee, on page 10, in line 24, by striking "five" and inserting "three"; in line 25, by striking "three certificates" and inserting "one certificate"; in line 29, following the period, by inserting "Such feasibility study shall examine the effects additional casinos would have on job creation, existing businesses, tourism, social programs, public health, and the state and local economies.;" in line 30, by striking "third" and inserting "first"; in line 31, following the period, by inserting "The destination casino commission shall not issue additional certificates of authority unless it determines, based upon review of the feasibility study and all other relevant information, that additional casinos would be in the best interest of the state and the local community.;"

On page 19, in line 2, by striking "(1)"; in line 3, by striking all after "organization"; by striking all in lines 4, 5 and 6; in line 7, by striking all before the period

Senator Clark requested the amendment be divided into two parts.

Part I reads: as amended by Senate Committee, on page 10, in line 24, by striking "five" and inserting "three"; in line 25, by striking "three certificates" and inserting "one certificate"; in line 29, following the period, by inserting "Such feasibility study shall examine the effects additional casinos would have on job creation, existing businesses, tourism, social programs, public health, and the state and local economies.;" in line 30, by striking "third" and inserting "first"; in line 31, following the period, by inserting "The destination casino commission shall not issue additional certificates of authority unless it determines, based upon review of the feasibility study and all other relevant information, that additional casinos would be in the best interest of the state and the local community.;"

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

On roll call, the vote was: Yeas 15, Nays 21, Present and Passing 3, Absent or Not Voting 1.

Yeas: Adkins, Allen, Brungardt, Buhler, Bunten, Emler, Gilstrap, Helgerson, Hensley, Lee, Schmidt, Schodorf, Steineger, Teichman, Vratil.

Nays: Barnett, Barone, Brownlee, Clark, Donovan, Haley, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Taddiken, Tyson, Umbarger, Wagle.

Present and Passing: Betts, Downey, Goodwin.

Absent or Not Voting: Corbin.

The motion failed and Part I of the amendment was rejected.

Part II reads: On page 19, in line 2, by striking "(1)"; in line 3, by striking all after "organization"; by striking all in lines 4, 5 and 6; in line 7, by striking all before the period Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 17, Nays 21, Present and Passing 0, Absent or Not Voting 2.

Yeas: Adkins, Allen, Barone, Brungardt, Buhler, Bunten, Emler, Gilstrap, Haley, Helgerson, Hensley, Lee, Schmidt, Schodorf, Steineger, Teichman, Vratil.

Nays: Barnett, Betts, Brownlee, Clark, Donovan, Goodwin, Huelskamp, Jackson, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Taddiken, Tyson, Umbarger, Wagle.

Absent or Not Voting: Corbin, Downey.

The motion failed and Part II of the amendment was rejected.

Senator Betts moved to amend **HB 2053** as amended by Senate Committee, on page 53, following line 1, by inserting:

"New Sec. 49. Contracts representing at least 20% of the total value of all contracts awarded for the construction of any destination enterprise and destination casino shall be awarded to minority-owned or women-owned businesses.;"

By renumbering remaining sections accordingly

Senator Schmidt moved to amend **HB 2053** on page 53 line 6, by striking lines 6 and 7 and inserting in lieu thereof:

"Sec. 50. (a) Not later than January 1 of each year, beginning January 1, 2006, the governor shall submit to the legislature a certified report indicating whether the State of Kansas has received at least \$25 million during the prior calendar year in aggregate payments from the federally-recognized Native American Indian Tribes in the State of Kansas.

(b) This act shall take effect and be in force six months after the first time the governor is unable to certify receipt of the funds as described in subparagraph (a).

FINAL ACTION OF BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Oleen an emergency was declared by a 2/3 constitutional majority, and **HB 2053**, **HB 2568**, **HB 2569** were advanced to Final Action and roll call.

HB 2053, An act concerning lotteries; enacting the Kansas expanded gaming opportunity act; authorizing operation of destination casinos, electronic gaming machines, video lottery terminals and other lottery games at certain locations; providing for the distribution of revenues derived therefrom; prohibiting certain acts and providing penalties for violations; amending K.S.A. 72-6810, 72-6812, 72-6813, 72-6814, 72-6815, 74-32,120, 74-32,121, 74-32,122, 74-32,124, 74-8702, 74-8705, 74-8710, 74-8711 and 74-8723 and K.S.A. 2003 Supp. 19-101a and repealing the existing sections.

On roll call, the vote was: Yeas 14, Nays 26, Present and Passing 0, Absent or Not Voting 0.

Yeas: Allen, Barone, Betts, Brungardt, Gilstrap, Haley, Helgerson, Hensley, Jackson, Lee, Schmidt, Steineger, Teichman, Vratil.

Nays: Adkins, Barnett, Brownlee, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Goodwin, Huelskamp, Jordan, Journey, Kerr, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schodorf, Taddiken, Tyson, Umbarger, Wagle.

A constitutional majority having failed to vote in favor of the bill, **HB 2053** did not pass.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote aye on this measure because I support the right of the Kansas voters in each locality to decide upon the expansion of gaming. Personally, I oppose gambling

with the attendant social ills it brings to those who become addicted and their friends and families; however we are already experiencing the cost of many of the problems with none of the revenues. Therefore I believe that our constituents deserve the opportunity to express their opinion through the ballot box, and I vote aye.—DAVID JACKSON

Senators Gilstrap, Haley, Teichman and Vratil request the record to show they concur with the “Explanation of Vote” offered by Senator Jackson on **HB 2053**.

HB 2568, An act concerning crimes, criminal procedure and punishment; relating to certain criminal defendants; assessment fee; establishing the children’s advocacy center fund.

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, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O’Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Pugh.

The bill passed.

HB 2569, An act concerning children’s advocacy centers; prescribing certain standards; regarding requirements for training of staff.

On roll call, the vote was: Yeas 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, Huelskamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O’Connor, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Pugh.

The bill passed, as amended.

ORIGINAL MOTION

Senator Oleen moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 29, SB 487; S Sub for HB 2133; HB 2271, HB 2556, HB 2638, HB 2669, HB 2705, HB 2758**.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

Senator Morris moved the Senate concur in house amendments to **SB 487**.

SB 487, An act relating to taxation; concerning mineral severance tax; relating to disposition of revenue; creating the gas valuation depletion trust fund and providing for distribution of moneys therefrom; providing for the Ogallala public improvement district amending K.S.A. 2003 Supp. 79-4227 and repealing the existing section.

On roll call, the vote was: Yeas 22, Nays 18, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Goodwin, Jackson, Jordan, Kerr, Morris, Oleen, Salmans, Schmidt, Taddiken, Teichman, Umbarger, Vratil.

Nays: Barone, Betts, Brownlee, Clark, Gilstrap, Haley, Helgerson, Hensley, Huelskamp, Journey, Lee, Lyon, O’Connor, Pugh, Schodorf, Steineger, Tyson, Wagle.

The Senate concurred.

CONFERENCE COMMITTEE REPORT

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

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

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

“Sec. 93. K.S.A. 2003 Supp. 17-2036 is hereby amended to read as follows: 17-2036.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

future effective date specified in the certificate of cancellation or a judicial decree or as specified in this act.

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

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

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

(a) The name of the foreign limited partnership;

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

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

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

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

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

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

Sec. 99. K.S.A. 2003 Supp. 56-1a606 is hereby amended to read as follows: 56-1a606.

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

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

(1) The name of the limited partnership; and

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

(c) Every limited partnership subject to the provisions of this section which is a limited corporate partnership, as defined in K.S.A. 17-5903 and amendments thereto, and which

holds agricultural land, as defined in K.S.A. 17-5903 and amendments thereto, within this state shall show the following additional information on the report:

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

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

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

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

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

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

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

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

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

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

(d) The annual report shall be signed by the general partner or partners of the limited partnership, sworn to before an officer duly authorized to administer oaths and forwarded

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

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

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

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

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

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

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

New Sec. 102. (a) When any limited partnership that is required to file an annual report with the secretary of state, shall apply for an extension of time for filing its annual income tax return with the internal revenue service, the time for filing the annual report with the secretary of state shall be extended, correspondingly, upon filing a copy of the application to income tax authorities with the secretary of state, prior to the due date of its annual report. All such copies of applications for extension of the time for filing income tax returns shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234 and amend-

ments thereto, a proper judicial order, and subsection (b). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed. Nothing in this section shall be deemed to prohibit the secretary of state from issuing any document described in K.S.A. 56-1a605, and amendments thereto, concerning a limited partnership.

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

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

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

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

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

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

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

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

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

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

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

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

New Sec. 106. (a) The state board of healing arts shall adopt rules and regulations to limit the percentage of ownership when a licensed occupational therapist forms a professional corporation pursuant to K.S.A. 17-2706 *et seq.*, and amendments thereto, in combination with other professional services.

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

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

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

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

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

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

(d) "Qualified person" means:

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

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

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

Sec. 108. K.S.A. 2003 Supp. 17-2710 is hereby amended to read as follows: 17-2710. A professional corporation may be organized only for the purpose of rendering one type of

professional service and service ancillary thereto and shall not engage in any other business, except that a single professional corporation may be organized to and render professional services under any two or more of the types set forth in items (2), (6), (13) and (17) ~~or of subsection (b) of K.S.A. 17-2707, and amendments thereto~~; under any two or more of the types set forth in items (4), (5), (7), (8), (9), (11), (12), (14), (15), (16) or (18) of subsection (b) of K.S.A. 17-2707, ~~and amendments thereto~~; ~~or under any two or more of the types set forth in items (8), (9), (18), (24) and (25) of subsection (b) of K.S.A. 17-2707, and amendments thereto~~, but shall be deemed to have the following purposes, whether or not authorized by its article of incorporation:

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

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

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

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

And by renumbering sections accordingly;

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

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

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

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

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **SB 29**.

Senator Huelskamp offered a substitute motion to not adopt the conference committee report and requested a new conference committee be appointed.

The motion carried and the President appointed Senators Vratil, Pugh and Goodwin as second conferees on **SB 29**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Senate Substitute for HB 2133**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Senate Substitute for House Bill No. 2133, as follows:

On page 1, by striking all in lines 14 through 43;

On page 2, by striking all in lines 1 through 12 and inserting the following:

“Section 1. K.S.A. 2003 Supp. 39-1432 is hereby amended to read as follows: 39-1432.

(a) Anyone participating in the making of any report pursuant to this act, or in any follow-up activity to *the report, including providing records upon request of the department of social and rehabilitation services*, or investigation of such report or who testifies in any administrative or judicial proceeding arising from such report shall not be subject to any civil liability on account of such report, investigation or testimony, unless such person acted in bad faith or with malicious purpose.

(b) No employer shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that such employee made or caused to be made a report, or cooperated with an investigation, under this act. A court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection.

Sec. 2. K.S.A. 2003 Supp. 39-1436 is hereby amended to read as follows: 39-1436. (a) *As provided in this section*, any person or agency which maintains records relating to the involved adult which are relevant to any investigation conducted by the department of social and rehabilitation services or a law enforcement agency under this act shall provide, ~~upon the written consent of the involved adult or the involved adult's guardian~~, the department of social and rehabilitation services or a law enforcement agency with the necessary records to assist in investigations. *In order to provide such records, the person or agency maintaining the records shall receive from the department of social and rehabilitation services:*

(1) *A written request for information;*

(2) *a written notice that an investigation is being conducted by the department; and*

(3) *certification or confirmation that the department has sent written notice to the involved adult or the involved adult's guardian.* Any such information shall be subject to the confidentiality requirements of K.S.A. 39-1434 and amendments thereto.

(b) The department of social and rehabilitation services or a law enforcement agency shall have access to all relevant records in accordance with the provisions of subsection (a).”;

And by renumbering the remaining sections accordingly;

Also on page 2, in line 13, by striking “19-805a, 19-805b and 19-828” and inserting “39-1432 and 39-1436”;

Also on page 1, in the title, in line 9, by striking all after “to”; by striking all in lines 10 and 11 and inserting “the reporting of abuse of certain adults; amending K.S.A. 2003 Supp. 39-1432 and 39-1436 and repealing the existing sections.”;

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

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

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **S Sub for HB 2133**.

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, Huelkamp, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Jackson.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I must vote no on the conferees report for **HB 2638, S Sub for HB**

2133 and **HB 2758** because each of these issues contain substantive legislation, that has not been debated on the floor of the Senate. Voting in favor of these conference committee reports would be an abdication of my responsibilities as an elected official of the people I represent.—DAVID JACKSON

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2271**, submits the following report:

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

On page 1, in line 21, by striking “2002” and inserting “2003”;

On page 4, by striking all in lines 38 through 43;

On page 5, by striking all in lines 1 through 23;

And by renumbering the remaining sections accordingly;

Also on page 5, in line 24, by striking “2002” and inserting “2003”;

On page 10, by striking all in lines 10 through 39 and inserting the following:

“Sec. 4. K.S.A. 2003 Supp. 21-3731 is hereby amended to read as follows: 21-3731. (a) Criminal use of explosives is the possession, manufacture or transportation of commercial explosives; chemical compounds that form explosives; incendiary or explosive material, liquid or solid; detonators; blasting caps; military explosive fuse assemblies; squibs; electric match or functional improvised fuse assemblies; or any completed explosive devices commonly known as pipe bombs or molotov cocktails. For purposes of this section, explosives shall not include class “c” fireworks, legally obtained and transferred commercial explosives by licensed individuals and ammunition and commercially available loading powders and products used as ammunition.

(b) (1) Criminal use of explosives as defined in subsection (a) is a severity level **6** 6, person felony.

(2) Criminal use of explosives as defined in subsection (a) if: (A) The possession, manufacture or transportation is intended to be used to commit a crime or is delivered to another with knowledge that such other intends to use such substance to commit a crime; (B) a public safety officer is placed at risk to defuse such explosive; or (C) the explosive is introduced into a building in which there is another human being, is a severity level **6** 5, person felony.

Sec. 5. K.S.A. 2003 Supp. 21-4318 is hereby amended to read as follows: 21-4318. (a) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, *game warden dog* or search and rescue dog is knowingly and intentionally, and without lawful cause or justification poisoning, inflicting great bodily harm, permanent disability or death, upon a police dog, arson dog, assistance dog, *game warden dog* or search and rescue dog.

(b) As used in this section:

(1) “Arson dog” means any dog which is owned, or the service of which is employed, by the state fire marshal or a fire department for the principal purpose of aiding in the detection of liquid accelerants in the investigation of fires.

(2) “Assistance dog” has the meaning provided by K.S.A. 2003 Supp. 39-1113, and amendments thereto.

(3) “Fire department” means a public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district.

(4) “*Game warden dog*” means any dog which is owned, or the service of which is employed, by the department of wildlife and parks for the purpose of aiding in detection of criminal activity, enforcement of laws, apprehension of offenders or location of persons or wildlife.

(5) “Police dog” means any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders.

~~(5)~~ (6) "Search and rescue dog" means any dog which is owned or the service of which is employed, by a law enforcement or emergency response agency for the purpose of aiding in the location of persons missing in disasters or other times of need.

(c) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, *game warden dog* or search and rescue dog is a class A nonperson misdemeanor.

(d) This section shall be part of and supplemental to the Kansas criminal code.";

And by renumbering the remaining sections accordingly;

Also on page 10, in line 40, by striking "21-3608 and"; also in line 40, after "21-3704" by inserting "and 21-4007"; in line 41, by striking "2002" and inserting "2003"; also in line 41, by striking "21-3415 and"; also in line 41, after "21-3701" by inserting ", 21-3731, 21-4318";

Also on page 1, in the title, in line 15, by striking "relating to crimes"; in line 16, by striking "against children;"; also in line 16, by striking "21-3608 and"; in line 17, by striking "2002" and inserting "2003"; also in line 17, by striking "21-3415 and"; also in line 17, after "21-3701" by inserting ", 21-3731, 21-4318"; in line 18, after "sections" by inserting "; also repealing K.S.A. 21-4007";

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

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

WARD LOYD
THOMAS C. OWENS
JIM WARD
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2271**.

Senator Journey offered a substitute motion to not adopt the conference committee report and requested a new conference committee be appointed.

The motion carried and the President appointed Senators Vratil, Pugh and Goodwin as second conferees on **HB 2271**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2556**, submits the following report:

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

On page 12, by striking all in lines 21 through 43;

By striking all on pages 13 through 22;

On page 23, by striking all in lines 1 through 24 and inserting the following:

"New Sec. 15. (a) The transfer by warranty deed of real property into an inter vivos trust shall not affect the coverage of any title insurance if the settlor of such trust is and remains a beneficiary of such trust during the settlor's lifetime.

(b) Upon the transfer taking effect: (1) The trustee shall be deemed to be insured; and

(2) the insurance coverage for such trust shall be subject to the defenses which the insurance company has under the policy against the original named insured.

(c) If the settlor is a beneficiary of such trust at the time of the transfer, the transfer of such property into such trust shall not: (1) Affect any homestead exemption or redemption rights; or

(2) cause a due on sale or similar clause to be effective under a mortgage or security interest.

(d) This section shall be a part of and supplemental to the Kansas uniform trust code.";

And by renumbering the remaining sections accordingly;

Also on page 23, in line 25, by striking "K.S.A. 39-709 and";

On page 1, in the title, in line 12, by striking "prop-"; by striking all in line 13; in line 14, by striking "gations" and inserting "the Kansas uniform trust code"; also in line 14, by striking "K.S.A. 39-709 and";

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

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

Senator Vratil moved the Senate adopt the Conference Committee Report on **2556**.

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, Huelkamp, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2638**, submits the following report:

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

On page 1, in line 16, after "Section 1." by inserting "On and after July 1, 2004,";

On page 3, in line 38, after "Sec. 2." by inserting "On and after July 1, 2004,";

On page 4, in line 19, after "Sec. 3." by inserting "On and after July 1, 2004,";

On page 5, by striking all in lines 3 through 43;

By striking all on pages 6 through 12;

On page 13, by striking all in lines 1 through 20 and inserting the following:

"New Sec. 4. On and after July 1, 2004, whenever death occurs of an inmate, who is in the custody of the secretary of corrections and who resides in a correctional facility or boot camp operated by or contracted through the secretary or of a juvenile, who is in the custody of the commissioner of juvenile justice and who resides in an institution operated by or contracted through the commissioner, an investigation regarding the circumstances of the death shall be initiated by the Kansas bureau of investigation. A report of the findings of the investigation shall be made available to the chairperson of the senate judiciary committee and the house corrections and juvenile justice committee of the Kansas legislature and shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

New Sec. 5. On and after July 1, 2004, whenever the death of a prisoner in the custody of a city or county and residing in jail or in a facility contracted through the city or county, or both, occurs, an investigation regarding the circumstances of the death shall be initiated by the Kansas bureau of investigation. A report of the findings of the investigation shall be made available to the chairperson of the senate judiciary committee and the house corrections and juvenile justice committee of the Kansas legislature and shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

Sec. 6. K.S.A. 74-9501 is hereby amended to read as follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council.

(b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the ~~sec-~~retary of social and rehabilitation services *superintendent of the highway patrol*, the commissioner of juvenile justice and the director of the Kansas bureau of investigation.

(c) The ~~director and all existing employees of the Kansas sentencing commission gov-~~ernor shall ~~serve as designate~~ staff to the Kansas criminal justice coordinating council, ~~while continuing to serve at the will of the Kansas sentencing commission pursuant to K.S.A. 74-9103 and amendments thereto in the performance of its duties as outlined in K.S.A. 74-~~

~~9101, 74-9106 and 21-4725 and amendments thereto.~~ The ~~director~~ *staff* shall attend all meetings of the council, be responsible for keeping a record of council meetings, prepare reports of the council and perform such other duties as directed by the council.

(d) The council shall elect a chairperson and vice-chairperson from among the members of the council.

(e) The council shall:

(1) *Appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, a member of a city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses;*

(2) define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements;

~~(2)~~ (3) perform such criminal justice studies or tasks as requested by the governor, *the attorney general*, the legislature or the chief justice, as deemed appropriate or feasible by the council;

~~(3)~~ (4) oversee development and management of a criminal justice database including assuming the designation and functions of the state statistical analysis center currently assigned to the Kansas bureau of investigation pursuant to K.S.A. 75-712a and amendments thereto. All criminal justice agencies as defined in subsection (c) of K.S.A. 22-4701 and amendments thereto and the ~~department of social and rehabilitation services~~ *juvenile justice authority* shall provide any data or information, including juvenile offender information which is requested by the council, in a form and manner established by the council, in order to facilitate the development and management of the criminal justice council database; ~~and~~

~~(4)~~ (5) develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including assuming the designation and functions of administering the United States bureau of justice assistance grants currently administered through the law enforcement antidrug abuse program of the department of administration. ~~On the effective date of this act any bureau of justice assistance antidrug abuse federal fund balances in any account and all unclassified positions authorized for the law enforcement antidrug abuse program of the department of administration shall be transferred to and budgeted with the Kansas sentencing commission.~~

~~(f) The council shall appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses.~~

~~(g) The council shall form a task force to study the consolidation of probation, parole and community corrections services.~~

~~(h) When analyzing criminal justice issues and performing criminal justice studies, the council shall:~~

(6) form such task groups as necessary and ~~shall~~ appoint individuals who appropriately represent law enforcement, the judiciary, legal profession, state, local, or federal government, the public, or other professions or groups as determined by the council, to represent the various aspects of the issue being analyzed or studied, *when analyzing criminal justice issues and performing criminal justice studies*. Members of the legislature may be appointed ex officio members to such task groups. A member of the council shall serve as the chairperson of each task group appointed by the council. The council may appoint other members of the council to any task group formed by the council; *and*

~~(i) The council shall~~ (7) review reports submitted by each task group named by the council and shall submit the report with the council's recommendations pertaining thereto to the governor, *the attorney general*, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.

Sec. 7. K.S.A. 74-9501 is hereby repealed.”;

And by renumbering the remaining sections accordingly;

Also on page 13, in line 21, before "K.S.A." where it appears the first time by inserting "On and after July 1, 2004,"; in line 22, by striking "and 75-52,129"; in line 24, by striking "statute book" and inserting "Kansas register";

Also on page 1, in the title, in line 10, by striking "relating to community"; in line 11, by striking all before "amending"; in line 12, after "K.S.A." where it appears the first time by inserting "74-9501,"; also in line 12, by striking "and 75-"; in line 13, by striking "52,129";

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

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

WARD LOYD
THOMAS C. OWENS
JIM WARD
Conferees on part of House

Senator Vratil moved the Senate adopt the Conference Committee Report on **HB 2638**.

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, Huel-skamp, Jordan, Journey, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Jackson.

The Conference Committee report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I must vote no on the conferees report for **HB 2638**, **S Sub for HB 2133** and **HB 2758** because each of these issue contain substantive legislation, that has not been debated on the floor of the Senate. Voting in favor of these conference committee reports would be an abdication of my responsibilities as an elected official of the people I represent.—DAVID JACKSON

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2669**, submits the following report:

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

On page 6, after line 10, by inserting the following:

"New Sec. 4. (a) The state treasurer is hereby authorized to charge fees to other state agencies for the services that it provides including, but not limited to, banking services fees based upon the number and type of transactions processed by each agency through the state's operating accounts established under K.S.A. 75-4202 and amendments thereto and transaction fees for processing vouchers, warrants and direct deposits, except that payroll warrants shall not be subject to any fee. The fees shall be based upon a combination of the banking fees incurred by the treasurer and the operating costs for providing each service.

(b) The state treasurer shall revise its schedule of fees annually after consulting with various state agencies.

(c) There is hereby established in the state treasury the treasurer services reimbursement fund. The fees collected under this section shall be deposited in the treasurer services reimbursement fund. Moneys in the treasurer services reimbursement fund may be expended for the treasurer's office general operating expenses in accordance with the provisions of appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or by a person designated by the state treasurer.

(d) The director of accounts and reports shall transfer to the treasurer services reimbursement fund of the state treasurer one or more amounts certified by the state treasurer for expenses incurred for unemployment insurance benefit warrants issued and processed and electronic transactions processed for the department of human resources payable from the employment security fund, from moneys made available to the state under section 903(d) of the federal social security act, as amended, and credited to the employment security fund.

(e) The provisions of this section shall expire on July 1, 2008.

New Sec. 5. In addition to providing and maintaining the KANS-A-N telephone directory on the internet, the department of administration shall publish paper-bound copies of the KANS-A-N telephone directory in January of calendar year 2005 and in January of each odd-numbered year thereafter. The secretary of administration shall fix, charge and collect a fee of not more than \$5 for each paper-bound copy of the KANS-A-N telephone directory to recover costs incurred for publication and distribution of such telephone directories. All moneys received for such fees 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 information technology fund.;

And by renumbering sections accordingly;

On page 1, in the title, in line 10, after "ACT" by inserting "authorizing certain state agencies to collect fees for services rendered,"; in line 11, after "fee" by inserting "; establishing the treasurer services reimbursement fund";

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

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

MELVIN NEUFELD
CLARK SHULTZ
BILL FEUERBORN
Conferees on part of House

Senator Morris moved the Senate adopt the Conference Committee Report on **HB 2669**.

On roll call, the vote was: Yeas 35, Nays 5, 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, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Nays: Barone, Betts, Gilstrap, Haley, Journey.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2705**, submits the following report:

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

On page 1, following line 17, by inserting:

"Section 1. On and after July 1, 2004, K.S.A. 2003 Supp. 74-2622 is hereby amended to read as follows: 74-2622. (a) There is hereby established within and as a part of the Kansas water office the Kansas water authority. The authority shall be composed of ~~23~~ 24 members of whom 13 shall be appointed as follows: (1) One member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, such person shall not exercise any power, duty or function as a member or chairperson of the water authority until confirmed by the senate. Such member shall serve at the pleasure of the governor and shall be the chairperson of the authority; (2) except as provided by subsection (b), 10 members shall be

appointed by the governor for terms of four years. Of the members appointed under this provision one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, one shall have a demonstrated background and interest in water use conservation and environmental issues, and two shall be representative of the general public. The member who is representative of large municipal water users shall be appointed from three nominations submitted by the league of Kansas municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district's association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nominations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. If the governor cannot make an appointment from the original nominations, the nominating authority shall be so advised and, within 30 days thereafter, shall submit three new nominations. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than six of such members shall belong to the same political party; (3) one member shall be appointed by the president of the senate for a term of two years; and (4) one member shall be appointed by the speaker of the house of representatives for a term of two years. The state geologist, *the state biologist*, the chief engineer of the division of water resources of the state board of agriculture, the director of the division of environment of the department of health and environment, the chairperson of the state corporation commission, the secretary of commerce, the director of the Kansas water office, the secretary of wildlife and parks, the administrative officer of the state conservation commission, the secretary of the state board of agriculture and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be nonvoting members ex officio of the authority. The director of the Kansas water office shall serve as the secretary of the authority.

(b) A member appointed pursuant to subsection (a)(2) shall be appointed for a term expiring on January 15 of the fourth calendar year following appointment and until a successor is appointed and qualified.

(c) In the case of a vacancy in the appointed membership of the Kansas water authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(d) The Kansas water authority shall:

(1) Consult with and be advisory to the governor, the legislature and the director of the Kansas water office.

(2) Review plans for the development, management and use of the water resources of the state by any state or local agency.

(3) Make a study of the laws of this state, other states and the federal government relating to conservation and development of water resources, appropriation of water for beneficial use, flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream and stream pollution for the

purpose of determining the necessity or advisability of the enactment of new or amendatory legislation in this state on such subjects.

(4) Make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution and groundwater studies.

(5) Make recommendations to each regular session of the legislature and to the governor at such times as the authority considers advisable concerning necessary or advisable legislation relating to any of the matters or subjects which it is required by this act to study for the purpose of making recommendations to the legislature. All such recommendations to the legislature shall be in drafted bill form together with such explanatory information and data as the authority considers advisable.

(6) Approve, prior to submission to the legislature by the Kansas water office or its director, (A) any contract entered into pursuant to the state water plan storage act, (B) any amendments to the state water plan or the state water planning act and (C) any other legislation concerning water resources of the state.

(7) Approve, before they become effective, any policy changes proposed by the Kansas water office concerning the pricing of water for sale pursuant to the state water plan storage act.

(8) Approve, before it becomes effective, any agreement entered into with the federal government by the Kansas water office.

(9) Request any agency of the state, which shall have the duty upon that request, to submit its budget estimate pertaining to the state's water resources and any plans or programs related thereto and, upon the authority's receipt of such budget estimate, review and evaluate it and furnish recommendations relating thereto to the governor and the legislature.

(10) Approve, prior to adoption by the director of the Kansas water office, rules and regulations authorized by law to be adopted.

(11) Approve, prior to adoption by the director of the Kansas water office, guidelines for conservation plans and practices developed pursuant to subsection (c) of K.S.A. 74-2608, and amendments thereto.

(e) The Kansas water authority may appoint citizens' advisory committees to study and advise on any subjects upon which the authority is required or authorized by this act to study or make recommendations.

(f) The provisions of the Kansas governmental operations accountability law apply to the Kansas water authority, and the authority is subject to audit, review and evaluation under such law.;

Also on page 1, in line 18, by striking "Section 1." and inserting "Sec. 2.";

On page 2, in line 21, by striking "2005" and inserting "2010"; in line 29, by striking "2005" and inserting "2010"; in line 34, by striking "2005" and inserting "2010"; by striking all in lines 38 through 43;

By striking all on page 3;

On page 4, by striking all in lines 1 through 29 and inserting:

"Sec. 3. On and after July 1, 2004, K.S.A. 2003 Supp. 82a-953a is hereby amended to read as follows: 82a-953a. During ~~the each~~ fiscal year ~~ending June 30, 2004~~, the director of accounts and reports shall transfer ~~\$3,773,949~~ \$6,000,000 from the state general fund to the state water plan fund created by K.S.A. 82a-951, and amendments thereto, 1/2 of such amount to be transferred on July 15 and 1/2 to be transferred on January 15, except that (1) such transfers are subject to reduction under K.S.A. 75-6704, and amendments thereto, and (2) the amount of moneys transferred from the state general fund to the state water plan fund during state fiscal year 2005 on each such date shall not exceed \$1,874,419.50. All transfers under this section shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal year ending June 30, ~~2004~~ 2005, shall be considered revenue transfers from the state general fund.

Sec. 4. K.S.A. 2003 Supp. 82a-714 is hereby repealed.

Sec. 5. On and after July 1, 2004, K.S.A. 2003 Supp. 74-2622 and 82a-953a and K.S.A. 2003 Supp. 82a-953a, as amended by section 177 of 2004 House Bill No. 2675, are hereby repealed.;

Also on page 4, in line 31, by striking “statute book” and inserting “Kansas register”;
 In the title, by striking all in lines 11 through 15 and inserting “water; relating to members of the Kansas water authority; concerning perfection of water rights; relating to the state water plan fund; amending K.S.A. 2003 Supp. 74-2622, 82a-714 and 82a-953a and repealing the existing sections; also repealing K.S.A. 2003 Supp. 82a-953a, as amended by section 177 of 2004 House Bill No. 2675.”;

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

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

MELVIN NEUFELD
 CLARK SHULTZ
 BILL FEUERBORN
Conferees on part of House

Senator Morris moved the Senate adopt the Conference Committee Report on **HB 2705**.

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, Jackson, Jordan, Journey, Kerr, Lee, Lyon, Morris, O’Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

Present and Passing: Huelskamp.

The Conference Committee report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2758**, submits the following report:

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

On page 6, in line 10, following “Records” by inserting “, other than criminal investigation records.”; in line 13, by striking “or” where it appears for the second time; also in line 13, following “(B)” by inserting “transportation and”; in line 14, preceding the period, by inserting “; or (C) private property or persons, if the records are submitted to the agency for the purposes of this paragraph”; in line 19, following the period, by inserting “Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.”;

On page 7, following line 34, by inserting:

“Sec. 2. K.S.A. 2003 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;

(4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;

(5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;

(6) preliminary discussions relating to the acquisition of real property;

(7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;

(8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 38-1507 and amendments thereto or subsection (f) of K.S.A. 38-1508 and amendments thereto;

(9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;

(10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;

(11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;

(12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

(13) matters relating to the security of a public body or agency, public building or facility or the information system of a public body or agency *security measures*, if the discussion of such matters at an open meeting would jeopardize the security of such public body, agency, building, facility or information system, and such security measures, that protect: (A) *Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments; and*

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

Sec. 3. K.S.A. 75-4320 is hereby amended to read as follows: 75-4320. (a) Any member of a body or agency subject to this act who knowingly violates any of the provisions of this act or who intentionally fails to furnish information as required by subsection (b) of K.S.A. 75-4318, *and amendments thereto*, shall be liable for the payment of a civil penalty in an action brought by the attorney general or county or district attorney, in a sum set by the court of not to exceed ~~five hundred dollars (\$500)~~ \$500 for each violation. In addition, any binding action which is taken at a meeting not in substantial compliance with the provisions of this act shall be voidable in any action brought by the attorney general or county or district attorney in the district court of the county in which the meeting was held within ~~ten~~ ~~(+0)~~ 21 days of the meeting, and the court shall have jurisdiction to issue injunctions or writs of mandamus to enforce the provisions of this act.

(b) Civil penalties sued for and recovered hereunder by the attorney general shall be paid into the state general fund. Civil penalties sued for and recovered hereunder by a county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.”;

By renumbering sections accordingly;

Also on page 7, in line 35, following “K.S.A.” by inserting “75-4320 and K.S.A.”; also in line 35, by striking “is” and inserting “and 75-4319 are”;

In the title, in line 12, by striking “the Kansas” and inserting “public information; relating to”; also in line 12, by striking “act”; also in line 12, by striking all following the semicolon;

in line 13, by striking all preceding the semicolon and inserting “relating to open meetings”; also in line 13, following “K.S.A.” by inserting “75-4320 and K.S.A.”; also in line 13, following “45-221” by inserting “and 75-4319”; in line 14, by striking “section” and inserting “sections”;

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

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

JENE VICKREY
RALPH OSTMEYER
ROGER TOELKES
Conferees on part of House

Senator Allen moved the Senate adopt the Conference Committee Report on **HB 2758**.

On roll call, the vote was: Yeas 20, Nays 20, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Brownlee, Brungardt, Buhler, Clark, Corbin, Donovan, Emler, Goodwin, Jordan, Kerr, Lyon, Morris, O’Connor, Oleen, Teichman, Umbarger, Vratil, Wagle.

Nays: Barnett, Barone, Betts, Bunten, Downey, Gilstrap, Haley, Helgerson, Hensley, Huelskamp, Jackson, Journey, Lee, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Tyson.

The Conference Committee report was not adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I must vote no on the conferees report for **HB 2638**, **S Sub for HB 2133** and **HB 2758** because each of these issue contain substantive legislation, that has not been debated on the floor of the Senate. Voting in favor of these conference committee reports would be an abdication of my responsibilities as an elected official of the people I represent.—DAVID JACKSON

MESSAGE FROM THE HOUSE

Announcing the House adopts the conference committee report on **HB 2101**.

The House not adopts the conference committee report on **HB 2347**, requests a conference and appoints Representatives O’Neal, Patterson and Pauls as second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **HB 2880** and has appointed Representatives O’Neal, Patterson and Pauls as third conferees on the part of the House.

The House nonconcurrs in Senate amendments to **Senate Substitute for HB 2471**, requests a conference and has appointed Representatives Neufeld, Schultz and Feuerborn as conferees on the part of the House.

The House announces the appointment of Representatives Decker, Beggs and Reardon to replace Representatives Wilk, Gordon and Burroughs as conferees on **SB 393**.

The House announces the appointment of Representatives Edmonds, McCreary and Flaharty to replace Representatives Wilk, Gordon and Burroughs as conferees on **SB 520**.

The House announces the appointment of Representative Long-Mast to replace Representative DeCastro as a conferee on **SB 511**. The House announces the appointment of Representatives Decker, Beggs and Reardon to replace Representatives D. Johnson, Powell and Thimesch as conferees on **HB 2027**.

Announcing the House herewith transmits the veto message from the Governor on **House Bill 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., which was received on April 16, 2004 and read on April 28, 2004.

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

Veto Message for House Bill 2798:

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

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

Perhaps most troubling, though, is the untenable position in which **House Bill 2798** would place law enforcement. If **House Bill 2798** became law, police officers, highway patrolmen, sheriffs, and deputies in Kansas would be forced to assume that any person they stop could have a firearm. This would make their already dangerous job even more difficult.

This has been my position for many years, and I remain committed to it. I would sign a bill that allowed retired law enforcement officers to carry concealed weapons. Anything further, however, would undermine the safety and freedom of all Kansans.

For these reasons, I veto House **Bill 2798**.

Kathleen Sebelius, Governor

April 16, 2004

A motion was made that, notwithstanding the Governor's objection to **House Bill 2798** the bill be passed. By a vote of 77 Yeas and 47 Nays, the motion having failed to receive the required two-thirds majority of the elected members of the House, the motion failed and Governor's veto is sustained.

Announcing the House herewith transmits the veto message from the Governor, together with the enrolled copy of **House Bill 2675**, AN ACT making and concerning appropriates for the fiscal years ending June 30, 2004, June 30, 2005, and June 30, 2006, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2003 Supp. 2-223, 55-193, 75-2319, 75-6702, 76-775, 79-2959, 79-2974, 79-3425c, 79-3425i, 79-34,147 and 82a-953a and repealing the existing sections, was received on April 19, 2004 and was read before the House on April 28, 2004.

A motion was made that a line item which the Governor vetoed in House Bill 2675 that reads as follows be passed:

"Sec. 45.

DEPARTMENT OF EDUCATION

(c) On the effective date of this act, of the \$138,940,758 appropriated for the above agency for the fiscal year ending June 30, 2004, by section 52(a) of chapter 138 of the 2003 Session Laws of Kansas from the state general fund in the KPERS - employer contributions account, the sum of \$6,005,014 is hereby lapsed."

There being no motion to reconsider the line item, the Speaker ruled the line item veto sustained.

A motion was made that a line item which the Governor vetoed in House Bill 2675 that reads as follows be passed:

"Sec. 88.

DEPARTMENT OF ADMINISTRATION

(q) In addition to the other purposes for which expenditures may be made by the department of administration from moneys appropriated from the state general fund or any special revenue fund for the fiscal year ending June 30, 2005, by this or other appropriation act of the 2004 regular session of the legislature, expenditures shall be made by the department of administration to produce paper copies of the health risk appraisal instrument

for any participant in the group health insurance plan who submits a written request for such paper copy.”

There being no motion to reconsider the line item, the Speaker ruled the line item veto sustained.

A motion was made that a line item which the Governor vetoed in House Bill 2675 that reads as follows be passed:

“Sec. 88.

DEPARTMENT OF ADMINISTRATION

(r) In addition to other purposes for which expenditure may be made by the department of administration from moneys appropriated from the information technology fund for the fiscal year ending June 30, 2005, by this or other appropriation act of the 2004 regular session of the legislature, the director of the division of information systems and communications is hereby authorized to fix, charge and collect fees for publication and distribution of the KANS-A-N telephone directory.”

There being no motion to reconsider the line item, the Speaker ruled the line item veto sustained.

A motion was made that a line item which the Governor vetoed in House Bill 2675 that reads as follows:

“Sec. 101.

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

(n) In addition to the other purposes for which expenditures may be made by the department of social and rehabilitation services from the moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2005 as authorized by this or other appropriation act of the 2004 regular session of the legislature, expenditures shall be made by the department of social and rehabilitation services from moneys appropriated from the state general fund or from any special revenue fund for fiscal year 2005 for the fully utilize the vocational rehabilitation federal grant.”

be passed. By a vote of 72 Yeas and 52 Nays, the motion not having received the required two-thirds majority of the elected members of the House voting in the affirmative, the motion did not prevail and the line item was sustained.

CHANGE OF CONFERENCE

The President announced the appointment of Senators Umbarger, Vratil and Downey as members of the Conference Committee on **SB 393** to replace Senators Brownlee, Jordan and Barone.

The President announced the appointment of Senators Kerr, Morris and Downey as members of the Conference Committee on **SB 520** to replace Senators Brownlee, Jordan and Barone.

The President announced the appointment of Senators Umbarger, Vratil and Downey as members of the Conference Committee on **HB 2027** to replace Senators Tyson, Taddiken and Lee.

CHANGE OF REFERENCE

The President withdrew **S Sub HB 2267** from the calendar under the heading of General Orders, and rereferred the bill to the Committee on Commerce.

The President withdrew **HB 2489**, **HB 2490** from the calendar under the heading of General Orders, and rereferred the bills to the Committee on Federal and State Affairs.

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 second 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 2471**.

APRIL 29, 2004

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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., Friday, April 30, 2004.

HELEN MORELAND, CAROL PARRETT, BRENDA KLING, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

